CHAPTER 286. AGRICULTURAL INDUSTRY

BEES
Act 26 of 1935

286.1-286.22 Repealed. 1976, Act 412, Imd. Eff. Jan. 9, 1977.

INSPECTION AND SALE OF COMMERCIAL FERTILIZERS
Act 26 of 1885

286.31-286.39 Repealed. 1975, Act 198, Eff. Jan. 1, 1976.

AGRICULTURAL SEEDS
Act 314 of 1923

286.51-286.63 Repealed. 1965, Act 329, Eff. Mar. 31, 1966.

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CERTIFICATION OF SEED
Act 221 of 1959

AN ACT to define certified and certain classes of seed; to authorize the director of agriculture to promulgate rules and regulations governing the certification of seed as to certain genetic and other standards; to authorize the designation by the director of certain official seed certification agencies; to provide immunity for certain persons under certain circumstances; and to provide penalties for the violation of this act.

History: 1959, Act 221, Eff. Mar. 19, 1960;—Am. 1995, Act 66, Imd. Eff. May 31, 1995.

The People of the State of Michigan enact:

286.71 Certification of seeds; definitions.

Sec. 1. As used in this act:

(a) "Seed" means the seed or propagating materials of cereals, grain crops, vegetable crops, oil crops, fiber crops, forage crops, grasses, legumes, turf species, tuberous crops, and other crops used in agricultural products which are produced or processed for the purpose of being sold, offered or exposed for sale, for planting, sowing or seeding processes within this state.

(b) "Certified seed" means the progeny of foundation, registered or certified seed if designated foundation and plant propagating materials that are so handled as to maintain satisfactory genetic identity and purity and have met certification standards required by this act and have been approved and certified by the director upon the advice of official seed certifying agencies.

(c) "Foundation seed" means seed stocks or plant propagating materials that are increased from breeder or designated foundation seed and are so handled as to most nearly maintain specific genetic identity and purity. Foundation seed, established by designation, shall be that seed designated by the agricultural experiment station together with the legal certifying agency and approved by the director of agriculture.

(d) "Breeder seed" means seed or plant propagating material directly controlled by the originating or, in certain cases, the sponsoring plant breeder or institution, and which provides the source of foundation seed.

(e) "Registered seed" means the progeny of foundation or registered seed or plant propagating material that is so handled as to maintain satisfactory genetic identity and purity and that has been approved and certified by the director of agriculture upon the advice of the official certifying agencies. This class of seed shall be of a quality suitable for the production of certified seed.

History: 1959, Act 221, Eff. Mar. 19, 1960.

286.72 Director as legal seed certifying officer; rules; standards; sale and advertising for sale of group of seed having common characteristics within species; conditions.

Sec. 2. (1) The director of the department of agriculture is the legal seed certifying officer of this state and may promulgate rules governing the certification of seed as to variety, type, strain, or other genetic character and the labeling of certified seed, and may adopt general seed certification standards in cooperation with certifying agencies. The rules authorized by this section shall be promulgated under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) The director of the department of agriculture may permit the sale and advertising for sale as certified seed of a group of seed having common characteristics within a species even though the seed does not meet the requirements of this act or the rules promulgated under this act for certified seed if all of the following conditions are met:

(a) The director determines, with the concurrence of the director of the Michigan agricultural experiment station, that there is an inadequate supply in this state of a group of seed having common characteristics within a species.

(b) The seed has been certified by the official certifying agency of another state and is advertised and sold bearing the state of origin certification.

(c) Reasonable and timely notice is given to persons affected by the director's determination under this subsection.

(3) If the director exercises the authority provided under subsection (2), the director shall issue a list of the seed permitted for sale.

History: 1959, Act 221, Eff. Mar. 19, 1960;—Am. 1986, Act 85, Imd. Eff. Apr. 24, 1986.

Administrative rules: R 285.623.1 et seq. and R 285.628.1 et seq. of the Michigan Administrative Code.

286.73 Official seed certifying agencies; designation; fees; liability.

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Sec. 3. (1) The director of the department of agriculture shall, after consultation with the dean of agriculture of Michigan state university and the director of the Michigan agricultural experiment station, and after due notice and public hearing, designate official seed certifying agencies that he or she finds qualified to assist and advise him or her in carrying out this act in order to advise as to variety, type, strain, or other genetic characteristics and to recommend standards for agricultural or vegetable seeds or plant propagating materials to be certified and the labeling of the seeds. The director of the department of agriculture shall authorize the designated official seed certifying agencies to charge a fee commensurate with the cost of the seed certification function.

(2) Except as otherwise provided in subsection (3), a person shall not have a cause of action against a designated official seed certifying agency or its agent or employee if the designated seed certifying agency or its agent or employee is engaged in duties permitted by this act and utilizes written and approved procedures and protocols established by the director of the department of agriculture.

(3) A designated official seed certifying agency or its agent or employee is liable for injuries to persons and damages to property under 1 or more of the following circumstances:

(a) The designated official seed certifying agency or its agent or employee failed to follow written procedures and protocols.

(b) The designated seed certifying agency or its agent or employee improperly interpreted the laboratory test results even though the written procedures and protocols were followed.

(c) The actions taken by the designated official seed certifying agency or its agent or employee were not within the scope of its official duties.

History: 1959, Act 221, Eff. Mar. 19, 1960;—Am. 1974, Act 94, Imd. Eff. Apr. 25, 1974;—Am. 1995, Act 66, Imd. Eff. May 31, 1995.

286.74 Repealed. 1995, Act 66, Imd. Eff. May 31, 1995.

Compiler's note: The repealed section pertained to lists of varieties and hybrids of seeds or materials eligible for certification.

286.75 Violation of act; penalty; seizure of mislabeled seeds.

Sec. 5. Whoever sells or offers or exposes for sale any seed within this state represented to be or labeled as certified, foundation, registered or breeder seed, as defined in this act, unless it has been produced and labeled in compliance with the rules and regulations promulgated by the director under the provisions of this act, shall be guilty of a misdemeanor. The director or his duly authorized agent is authorized to seize and take possession of such seeds in accordance with the procedure set forth in section 10 of Act No. 314 of the Public Acts of 1923, as amended, being section 286.60 of the Compiled Laws of 1948.

History: 1959, Act 221, Eff. Mar. 19, 1960.

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CHERRY PESTS
Act 86 of 1929

AN ACT to protect the cherry industry, and to provide for the control of the cherry fruit flies (Rhagoletis Cingulata Loew and R. Fausta Osten Sacken) and other cherry pests, and imposing certain powers and duties on the commissioner of agriculture.

History: 1929, Act 86, Imd. Eff. Apr. 29, 1929.

The People of the State of Michigan enact:

286.81 Protection of cherry crops.

Sec. 1. In order to protect the cherry crops of the state from the ravages of the cherry fruit flies (Rhagoletis Cingulata Loew and R. Fausta Osten Sacken) established within the state and now seriously and destructively threatening and infesting cherry orchards within the state, and other cherry pests which are now or may hereafter be established in the state, the commissioner of agriculture shall adopt and carry out such control measures as are deemed advisable and may cooperate with other agencies in the control of these pests.

History: 1929, Act 86, Imd. Eff. Apr. 29, 1929;—CL 1929, 5112;—CL 1948, 286.81.

Administrative rules: R 285.600.1 of the Michigan Administrative Code.

286.82 Control regulations; enforcement.

Sec. 2. The commissioner of agriculture is authorized to adopt, issue and enforce rules and regulations for the control of these pests. Under such rules and regulations, the commissioner of agriculture or his authorized agents may prohibit and prevent the movement within the state without inspection, or the shipment or transportation within the state of any and all cherries or any horticultural product or any other material of any character whatsoever capable of carrying these pests in any living stage of their development, and in the enforcement of such rules and regulations may intercept, stop and detain for official inspection any person, car, vessel, boat, truck, automobile, aircraft, wagon or other vehicle or container believed or known to be carrying the said pests in any living state of their development, in violation of said rules and regulations of the commissioner of agriculture, and may seize, possess and destroy any cherries moved, shipped or transported in violation of the rules and regulations of the commissioner of agriculture.

History: 1929, Act 86, Imd. Eff. Apr. 29, 1929;—CL 1929, 5113;—CL 1948, 286.82.

286.83 Right of access; unlawful acts.

Sec. 3. For the purpose of this act the commissioner of agriculture or his authorized agents shall have free access to any farm, field, orchard, garden, elevator, canning factory, warehouse, freight or express office, car, freight yard, vehicle, vessel, boat, container or any other place which for probable cause it may be necessary or desirable for such authorized agents to enter in carrying out the provisions of this act. It shall be unlawful to deny such access to such authorized agents and to hinder, thwart or defeat such inspection or entrance by misrepresentation or concealment of facts or conditions or otherwise.

History: 1929, Act 86, Imd. Eff. Apr. 29, 1929;—CL 1929, 5114;—CL 1948, 286.83.

286.84 Violation of act; penalty.

Sec. 4. Any person, copartnership, association or corporation violating any provision of this act or the rules or regulations of the commissioner of agriculture issued and promulgated hereunder shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than 25 dollars nor more than 100 dollars or imprisonment in the county jail for not more than 90 days, or both fine and imprisonment in the discretion of the court.

History: 1929, Act 86, Imd. Eff. Apr. 29, 1929;—CL 1929, 5115;—CL 1948, 286.84.

286.85 Treatment by owner or commissioner; expense, enforcement of payment.

Sec. 5. The commissioner of agriculture shall have power, and it is made his duty to require on the part of the owner all necessary treatment, by spraying or otherwise, of all cherry trees within the state, whether in field, lot, orchard or elsewhere. The owner or person having charge of cherry trees or cherry orchards shall, within the time limit provided, administer such treatment or cause the same to be administered as set forth in the rules and regulations of the commissioner of agriculture. In case the owner or person in charge of such cherry trees or cherry orchards shall refuse or neglect to carry out any and all instructions given by the commissioner of agriculture within the time limit provided, the commissioner of agriculture or his authorized agents may take the action so required and shall employ such aid as may be necessary to carry out his own

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orders or those of his inspector or inspectors as the case may be. The commissioner of agriculture shall render a bill against the owner for the full amount of such expenses. If the owner refuses or neglects to pay said bill within 30 days, it shall be certified to the supervisor of the township in which the property on which the work was done, is located. The supervisor shall cause all such expenditures to be severally levied on the lands on which such expenditures were made, and the same shall become a lien upon said land and shall be assessed and collected as other taxes are assessed and collected. When collected, they shall be paid by the collecting official direct to the commissioner of agriculture, who shall deposit the same into the general fund of the state.

History: 1929, Act 86, Imd. Eff. Apr. 29, 1929;—CL 1929, 5116;—CL 1948, 286.85.

286.86 Liability of agent or employe.

Sec. 6. In construing and enforcing the provisions of this act, the act, omission, or failure to act of any official, agent or other person acting for or employed by any association, partnership or corporation within the scope of his employment or office, shall in every case be deemed the act, omission or failure to act of such association, partnership or corporation as well as of the person.

History: 1929, Act 86, Imd. Eff. Apr. 29, 1929;—CL 1929, 5117;—CL 1948, 286.86.

286.87 Commissioner's appointment of assistants and employes.

Sec. 7. The commissioner of agriculture is hereby empowered to appoint such assistants and employes as will be necessary to perform the duties hereby imposed. The number of such assistants and employes and the compensation payable to all persons so appointed and employed being subject to the approval of the state administrative board.

History: 1929, Act 86, Imd. Eff. Apr. 29, 1929;—CL 1929, 5118;—CL 1948, 286.87.

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WHITE PINE BLISTER RUST
Act 313 of 1929

AN ACT to provide for the control and eradication of white pine blister rust; to provide for the destruction of trees, plants and bushes infected with white pine blister rust; to authorize the commissioner of agriculture to remove, appraise and pay for healthy host plants necessarily destroyed; to declare certain plants and bushes a public nuisance; to authorize the commissioner to set aside fruiting currant and gooseberry and white pine growing districts as control areas; to provide for co-operation between state departments; to authorize the promulgation of rules and regulations; to provide funds for carrying out the purposes of this act; and to provide penalties for its violation.

History: 1929, Act 313, Imd. Eff. May 24, 1929.

The People of the State of Michigan enact:

286.101 White pine blister rust; definitions.

Sec. 1. For the purposes of this act the following words, names and terms shall be construed respectively to mean:

(a) Commissioner: The commissioner of agriculture.

(b) Cultivated black currants: Plants, roots, cuttings or scions of Ribes nigrum L.

(c) Currants and gooseberries: Plants, roots, cuttings or scions belonging to the genera Ribes L. and Grossularia (Tourn.) Mill.

(d) White pine blister rust control area: An area established by state authority, wherein the planting and possession of currant and gooseberry plants is prohibited for the purpose of protecting the white pines on such area from damage by white pine blister rust.

(e) Fruiting currant and gooseberry control area: An area established by state authority wherein the planting or possession of white pines is prohibited for the purpose of protecting fruiting currants and gooseberries in such areas from damage by the white pine blister rust.

(f) White pine: Plants of any species belonging to the genus Pinus which bear their needles in clusters of 5.

(g) White pine blister rust: The fungous disease caused by Cronartium ribicola Fischer.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5131;—CL 1948, 286.101.

286.102 White pine blister rust; declared dangerous pest; enforcement of act; other state departments.

Sec. 2. (1) The fungus disease commonly known as the white pine blister rust caused by the organism Cronartium ribicola Fischer is declared to be a dangerous forest pest in all its stages.

(2) The director of the department of agriculture shall enforce and administer the measures specified in this act for the control of this pest.

(3) All state departments shall cooperate with the department of agriculture in the control and eradication of the white pine blister rust.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5132;—CL 1948, 286.102;—Am. 2000, Act 136, Imd. Eff. June 1, 2000.

286.103 White pine blister rust; destruction of plants.

Sec. 3. Any white pines, currants or gooseberries within the state which are found to be infected with white pine blister rust are hereby declared a public nuisance, and any such diseased plants and any and all wild plants of the genera Ribes and Grossularia, may be destroyed forthwith by order of the commissioner or his agents. Any currants, gooseberries or white pines not infected with white pine blister rust may be destroyed by the commissioner or his agents where necessary in carrying out the purposes of this act.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5133;—CL 1948, 286.103.

286.104 Cultivated black currant declared public nuisance; destruction.

Sec. 4. The cultivated black currant is hereby declared a public nuisance. Planting, possessing, growing, propagating, selling or offering for sale plants, roots, or cuttings of cultivated black currants within the state is hereby prohibited. Such roots, cuttings or plants now planted or growing may be destroyed by the commissioner or his agents.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5134;—CL 1948, 286.104.

286.105 White pine blister rust; blister rust control areas; fruiting currant and gooseberry

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control areas; destruction of plants, expense.

Sec. 5. The commissioner is hereby authorized and empowered to promulgate by letter, publication, poster or other means, information concerning the white pine blister rust and to designate by the aforesaid means of promulgation blister rust control areas within the state in which control measures are necessary or advisable. In designating fruiting currant and gooseberry control areas, the commissioner shall use due care to fix their boundaries so as to include areas where currants and gooseberries are grown on a commercial scale and where their value for this purpose is clearly greater than the use of the area for the production of white pine. In designating white pine blister rust control areas, the commissioner shall use due care to fix their boundaries so as to protect white pines on such areas from damage by white pine blister rust. It shall be the duty of every land owner within such designated areas to carry out such control measures as are ordered by the commissioner, including the removal and destruction of any or all wild and cultivated currants and gooseberries or white pines. No currants or gooseberries shall be planted within such white pine blister rust control areas without written permission from the commissioner. No white pines shall be planted within such fruiting currant or gooseberry control areas without written permission of the commissioner. If the owner fails to destroy the above named plants within the time specified by the commissioner, the commissioner shall cause said plants to be destroyed and the expense thereof shall be a lien upon the owner's land. Such lien shall have the same effect and may be collected in the same manner as taxes upon such land. Any moneys so collected shall be paid into the state treasury and credited to the fund provided for this work.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5135;—CL 1948, 286.105.

286.106 White pine blister rust; destruction of plants; compensation to owner; noxious weeds.

Sec. 6. If cultivated currants, gooseberries or white pines which are not infected with white pine blister rust, are destroyed by specific order of the commissioner or his agents, the owner may be compensated therefor, the damages to be appraised by the commissioner or his agents at and not to exceed the actual value of the material destroyed, and paid to said owner by the state treasurer upon authorization of the commissioner: Provided, That any and all wild currants and gooseberries are hereby declared noxious weeds and no compensation shall be paid therefor.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5136;—CL 1948, 286.106.

286.107 Right of entry by commissioner of agriculture.

Sec. 7. The commissioner and his agents shall have the right to enter upon any private or public lands to determine the presence or the absence of white pine blister rust in any of its stages and to carry out measures for its control.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5137;—CL 1948, 286.107.

286.108 White pine blister rust; co-operation; rust control on state lands.

Sec. 8. The commissioner may co-operate with the United States department of agriculture, with the department of conservation, and with counties, townships, associations, institutions and individuals for the suppression and control of white pine blister rust, and shall carry on such investigations of the disease and its control as are deemed advisable by the commissioner. The department of conservation shall have control of all state owned lands and it shall be its duty to co-operate with the department of agriculture in the control of the white pine blister rust on all state lands and the expense so incurred shall be borne by the department of conservation.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5138;—CL 1948, 286.108.

286.109 Entry or movement of certain plants.

Sec. 9. The commissioner is hereby authorized and empowered to prohibit and prevent or regulate the entry into or movement within the state from any part thereof to any other part, of any white pines or any plants of genus Ribes or Grossularia when such plants are to be shipped into blister rust control areas.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5139;—CL 1948, 286.109.

286.112 Violation of act; penalty.

Sec. 12. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not more than 100 dollars or imprisonment for not more than 90 days, and costs of prosecution, or both such fine and imprisonment in the discretion of the court.

History: 1929, Act 313, Imd. Eff. May 24, 1929;—CL 1929, 5142;—CL 1948, 286.112.

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EXTERMINATION OF GRASSHOPPERS AND SIMILAR PESTS
Act 6 of 1919 (Ex. Sess.)

AN ACT to authorize county boards of supervisors and township boards to appropriate money for the extermination of grasshoppers and other similar pests.

History: 1919, Ex. Sess., Act 6, Imd. Eff. June 25, 1919.

The People of the State of Michigan enact:

286.121 Extermination of grasshoppers, similar pests; county appropriation.

Sec. 1. Whenever there may exist within this state, any scourge, or threatened scourge, of grasshoppers or other similar pests, the board of supervisors of any county is hereby authorized to appropriate money for the purchase of poison and to provide such other means as may to them seem best, for the extermination of such pests.

History: 1919, Ex. Sess., Act 6, Imd. Eff. June 25, 1919;—CL 1929, 5143;—CL 1948, 286.121.

286.122 Extermination of grasshoppers, similar pests; township appropriation.

Sec. 2. Whenever any board of supervisors shall have purchased any such poison, as in this act provided, the township board of any township within such county is hereby authorized to appropriate money for the spreading of such poison as may be allotted to such township, or to use other means to exterminate such pests.

History: 1919, Ex. Sess., Act 6, Imd. Eff. June 25, 1919;—CL 1929, 5144;—CL 1948, 286.122.

286.123 Expense; payment.

Sec. 3. Any expense incurred or money appropriated under this act shall be treated as a general county or township expense, as the case may be, and shall be payable as other general county and township expenses are now payable.

History: 1919, Ex. Sess., Act 6, Imd. Eff. June 25, 1919;—CL 1929, 5145;—CL 1948, 286.123.

DESTRUCTION OF GRASSHOPPERS AND SIMILAR PESTS
Act 358 of 1921

286.131-286.135 Repealed. 2002, Act 155, Imd. Eff. Apr. 8, 2002.

INSECTICIDES AND FUNGICIDES
Act 254 of 1913

286.151-286.160 Repealed. 1949, Act 297, Eff. Sept. 23, 1949.

THE INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT OF 1949
Act 297 of 1949

286.161-286.173 Repealed. 1976, Act 171, Imd. Eff. June 25, 1976.

THE JOHN C. HERTEL TOXIC SUBSTANCE CONTROL COMMISSION ACT
Act 116 of 1978

286.181-286.194 Repealed. 2015, Act 210, Eff. Mar. 14, 2016.

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THE INSECT PEST AND PLANT DISEASE ACT
Act 189 of 1931

AN ACT to regulate the sale and distribution of nursery stock, plants, and plant products; to prevent the introduction into and the dissemination within this state of insect pests and plant diseases; to provide for the destruction and control of insect pests and plant diseases; to provide for the destruction or treatment of certain plants or plant products; to provide for the licensure and inspection of certain persons and activities under certain circumstances; to impose certain powers and duties on the director of agriculture; to create certain restricted funds for certain department activities and to allow allocation of those funds throughout the department; to provide for the promulgation of rules; to prescribe penalties and civil sanctions; and to provide remedies.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 1961, Act 239, Eff. Sept. 8, 1961;—Am. 1978, Act 123, Imd. Eff. Apr. 25, 1978;—Am. 1984, Act 88, Imd. Eff. Apr. 19, 1984;—Am. 2005, Act 53, Imd. Eff. June 27, 2005;—Am. 2007, Act 84, Imd. Eff. Sept. 30, 2007.

The People of the State of Michigan enact:

286.201 Insect pest and plant disease act; short title.

Sec. 1. This act shall be known by the short title of "The insect pest and plant disease act."

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.201.

Former law: See Act 91 of 1905, being CL 1915, §§ 7411 to 7432; Act 187 of 1917; Act 60 of 1919; Act 241 of 1921; Act 279 of 1913; and Act 142 of 1927, being CL 1929, §§ 5083 to 5111.

286.202 Definitions.

Sec. 2. As used in this act:

(a) "Agent" means a person that solicits, takes orders, or sells nursery stock in this state for a grower or dealer of nursery stock, but not on the premises or place of business of the grower or dealer of nursery stock.

(b) "Department" means the department of agriculture and rural development.

(c) "Director" means the director of the department or an employee of the department authorized by the director.

(d) "Insect pests" means insects or other invertebrates injurious to plants or plant products.

(e) "Nursery" means any grounds or premises on or in which nursery stock is propagated, grown, or cultivated for the purpose of distributing or selling nursery stock as a business.

(f) "Nursery dealer" means a person that is not a grower or an original producer of nursery stock in this state, that buys nursery stock for the purpose of reselling or reshipping independently of the control of any nursery grower or nursery dealer, or that is engaged with a nursery grower or nursery dealer in handling nursery stock on a consignment basis.

(g) "Nursery grower" or "nurseryman" means a person owning, leasing, managing, or in charge of a nursery.

(h) "Nursery stock" means all domesticated or wild botanically classified hardy perennial or biennial trees, shrubs, vines, and other plants; cuttings, grafts, scions, buds, bulbs, rhizomes, or roots of any of these; and fruit pits. Nursery stock includes plants and plant parts for, or capable of, propagation, excepting field, vegetable, and flower seeds, corms, and tubers.

(i) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(j) "Places" means vessels, cars and other vehicles, buildings, docks, nurseries, orchards, and other premises where plants or plant products are grown, kept, or handled.

(k) "Plant diseases" means fungi, bacteria, nematodes, and viruses, injurious to plants or plant products, and the pathological condition in plants or plant products caused by fungi, bacteria, nematodes, and viruses.

(*l*) "Plant grower" or "plant dealer" means a person growing or offering for sale herbaceous perennials, or biennial nursery stock, small-fruited plants, or asparagus or rhubarb roots.

(m) "Plants or plant products" means trees, shrubs, vines, fruit, forage and cereal plants, and all other plants, cuttings, grafts, scions, buds, and all other parts of plants; including fruit, vegetables, roots, bulbs, pips, seeds, wood, lumber, and all other plant products.

(n) "Property" means real estate, personal property, and any thing or substance connected with real estate or personal property whether or not it has value.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1933, Act 246, Imd. Eff. July 10, 1933;—Am. 1939, Act 332, Eff. Sept. 29, 1939;—CL 1948, 286.202;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 1956, Act 172, Imd. Eff. Apr. 16, 1956;—Am. 1961, Act 239, Eff.

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Sept. 8, 1961;—Am. 1962, Act 114, Eff. Mar. 28, 1963;—Am. 1976, Act 235, Imd. Eff. Aug. 4, 1976;—Am. 2012, Act 106, Imd. Eff. Apr. 24, 2012.

286.203 Inspection of nursery and other premises; right of access.

Sec. 3. The director or his deputies shall have authority to inspect any nursery, orchard, fruit or garden plantation, field, park, cemetery, private premises or public place, and any place which might become infested or infected with insect pests or diseases. He shall also have authority to inspect or to reinspect at any time or place any nursery stock shipped in or into the state, and to treat it as hereinafter provided. For the purpose of inspection and carrying out the provisions of this act or any rule, regulation, order or quarantine made or promulgated in pursuance of this act, the officers and employees of the department of agriculture shall have authority to stop any vehicle or other means of conveyance found carrying nursery stock on the public highways and shall have free access in the daytime to any nursery, orchard, garden, field, packing ground, building, cellar, freight or express office, warehouse, car or other vehicle, vessel or other place where it may be necessary or desirable for them to go, or which it may be necessary for them to inspect or treat in the performance of their duties, except cellar and rooms of private residences. It shall be unlawful to deny such access to the officers and employees of the department of agriculture, or to offer any resistance to such officers and employees, or to thwart or hinder such inspection by misrepresenting or concealing facts or conditions, or otherwise.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.203;—Am. 1961, Act 239, Eff. Sept. 8, 1961.

286.204 Inspection of stock before sale; application; assumed name.

Sec. 4. A person desiring to sell or give away nursery stock in this state shall apply in writing before April 1 of each year to the director for the inspection of the nursery stock growing in this state. A person that fails to apply for the inspection of nursery stock as required under this section is liable for the additional expense of the department for the inspection of the nursery stock. The application shall be submitted under the true name of the person. If an assumed name is used, the proprietor's name and address shall also appear on the application and in all advertising or printed matter used or distributed.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.204;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 1961, Act 239, Eff. Sept. 8, 1961;—Am. 2012, Act 106, Imd. Eff. Apr. 24, 2012.

286.205 Nursery stock from foreign country; inspection.

Sec. 5. Every person, firm, partnership, association or corporation receiving directly or indirectly any nursery stock or other living plants or living plant parts for or capable of propagation from a foreign country shall notify the director of the arrival of such shipment, of the contents thereof, and of the name of the consignor, and shall hold such shipment in the original container not over 10 days, within which time such shipment shall be duly inspected or released by the director.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.205;—Am. 1961, Act 239, Eff. Sept. 8, 1961.

286.206 Inspections of nurseries; fee; certificate of inspection; validity; prohibitions; basis for charging inspection fee; review and adjustment of fees schedule.

Sec. 6. (1) The director shall cause to be inspected not less than every other year each nursery located in this state, and each nursery dealer located in this state that receives nursery stock from other states or countries, including any nursery stock found at that nursery or nursery dealer that will be sold, offered for sale, or removed or shipped from the nursery to ascertain whether they are infested with insect pests or infected with plant diseases. Inspections of nurseries that distribute nursery stock interstate shall be conducted annually, provided those nurseries are in compliance with this act. If the director conducts an inspection under this subsection, the director shall assess an inspection fee as provided for in this section.

(2) If upon the inspection of any nursery stock the department determines that the nursery stock or nursery and its premises are apparently free from insect pests and plant diseases, and if the necessary inspection fees have been paid, the director shall give or send to the owner of the nursery or of the nursery stock or to the person in charge of the nursery or nursery stock a certificate executed by the director setting forth the fact of the inspection.

(3) Certificates of inspection are valid from November 1 in 1 year to October 31 of the following year. A nursery owner or nursery dealer may request a second inspection be performed, prior to offering for sale or removing or shipping of nursery stock from a nursery or other premises. The department shall perform the inspection if the nursery owner, nursery dealer, or applicant pays an inspection fee based upon the actual cost to the department in conducting the inspection.

(4) A person shall not sell, offer for sale, or remove or ship from a nursery or other premises any nursery

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stock until the nursery stock has been officially inspected and a certificate or permit covering it has been granted by the director, except that nursery stock may be shipped to the director without an inspection and certification.

(5) The director shall not grant a certificate of inspection to persons that intend to sell or remove nursery stock originally supplied from the state, federal, or state and federal nurseries or by any political subdivision or its agencies.

(6) The director shall charge an inspection fee based upon the cost to the department of making the inspection. However, the director shall adjust the schedule of fees for the costs of making the various inspections of nursery stock, plants, and plant materials as required by this act. The director shall review and adjust its schedule of fees for the inspections at the end of each fiscal year. In any given fiscal year, the director may raise inspection fees by not more than an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit-Ann Arbor-Flint consumer price index over the 1-year period. An adjustment under this subsection shall not exceed 5% even if the amount determined by the state treasurer to reflect the cumulative annual percentage change over the 1-year period is more than 5%. If the cumulative annual percentage change over the 1-year period is less than zero, a cumulative annual percentage change of zero shall be used for the adjustment. The adjustment shall be rounded to the nearest dollar to set each year's fee under this subsection, but the absolute value shall be carried over and used to calculate the next annual adjustment. The commission of agriculture and rural development shall approve all adjustments to the fees before they are adopted.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1933, Act 246, Imd. Eff. July 10, 1933;—Am. 1935, Act 232, Eff. Sept. 21, 1935;—Am. 1937, Act 71, Imd. Eff. June 11, 1937;—CL 1948, 286.206;—Am. 1955, Act 255, Eff. Feb. 3, 1956;—Am. 1961, Act 239, Eff. Sept. 8, 1961;—Am. 1995, Act 137, Imd. Eff. July 10, 1995;—Am. 2007, Act 84, Imd. Eff. Sept. 30, 2007;—Am. 2012, Act 106, Imd. Eff. Apr. 24, 2012.

Administrative rules: R 285.610.1 et seq. and R 285.619.1 et seq. of the Michigan Administrative Code.

286.207 Withholding certificate; precautions; fraud, investigation, revocation of license.

Sec. 7. If the director finds that part of a nursery is infested or infected with insect pests or plant diseases and that the remainder of it is not so infested or infected, or if he has reason to believe that a nursery is liable, by reason of its proximity to infested or infected premises, to become so infested or infected before the next inspection, he may prescribe in writing such measures of precaution, or may make in writing such conditions as to the use of his certificate as may in his judgment be necessary, and he may withhold a certificate until such conditions have been accepted in writing by the owner of the nursery; and the use of such certificate without taking such measures of precaution or observing such conditions shall subject the owner of said nursery to the penalties prescribed for violation of this act. In any case coming to the attention of the director in which a nurseryman, dealer, plant grower or agent furnishing or selling nursery stock appears to be guilty of fraudulent practice, the director shall have authority to make such investigation as he may deem proper and proceed with such prosecution as may be necessary for the protection of the interests of the buying public, and, in addition, the director may revoke his license.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1933, Act 246, Imd. Eff. July 10, 1933;—CL 1948, 286.207;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 1961, Act 239, Eff. Sept. 8, 1961.

286.208 Sale of dead or weakened nursery stock; penalty.

Sec. 8. Only sound, healthy nursery stock stored or displayed under conditions which will maintain its vigor shall be offered for sale. Offering for sale of dead nursery stock or of stock so seriously weakened by drying, excessive heat or cold, or any other condition that makes it unable to grow satisfactorily when given reasonable care, or the verbal or printed misrepresentation of any material fact, including but not limited to the size, grade, quality, condition or hardiness of nursery stock offered for sale or sold, shall be unlawful.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.208;—Am. 1961, Act 239, Eff. Sept. 8, 1961.

286.209 License required for sale of nursery stock; exception; application; fees; agriculture licensing and inspection fees fund; horticulture fund; creation and administration; advisory committee; section inapplicable to certain persons; issuance of initial or renewal license; failure to issue or deny license within time period; report; “completed application” defined.

Sec. 9. (1) A person growing or desiring to sell nursery stock in this state shall, on or before October 31 of each year, apply to the director for a license. A person that is a nursery dealer that only purchases nursery stock grown in this state by a nursery grower in this state that holds a valid nursery license and certificate of inspection is not required to apply for a license, but instead shall, on or before October 31 of each year,

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register with the director as a nursery dealer. The fee to register as a nursery dealer is $35.00. The annual nursery license fee is $100.00. The annual license fee for plant growers or plant dealers is $100.00. The annual license fee for nursery dealers is $100.00. For persons growing less than 1/4 acre of nursery stock or utilizing less than 200 square feet of greenhouse space, the fee for a license is $40.00. License fees provided for in this act are due and payable at the office of the director on or before October 31 of each year. The fees imposed in this subsection are subject to subsection (8).

(2) The agriculture licensing and inspection fees fund is created within the state treasury. The state treasurer may receive license and inspection fees and administrative and civil fines received pursuant to this act and other acts, as provided for by law, that are administered by the department for deposit into the agriculture licensing and inspection fees fund. The state treasurer may also receive money or other assets from any other source for deposit into the agriculture licensing and inspection fees fund. The state treasurer shall direct the investment of the agriculture licensing and inspection fees fund and shall credit to the agriculture licensing and inspection fees fund interest earnings from fund investments. Money in the agriculture licensing and inspection fees fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department shall expend money from the agriculture licensing and inspection fees fund, upon appropriation, for the purpose of administering and carrying out those duties required by law under this act and other acts, as provided by law, that are administered by the department. The department shall be the administrator of the agriculture licensing and inspection fees fund for auditing purposes.

(3) Subject to subsection (4), license fees, inspection fees, and other noncriminal fees collected under this section and section 6 and administrative fines imposed under this act shall be deposited into the agriculture licensing and inspection fees fund, to be used, upon appropriation, by the director in administering and carrying out those duties required by law under this act and to develop and improve training and outreach programs for the purpose of safeguarding plants or plant products from unwanted plant pests.

(4) The horticulture fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the horticulture fund. Up to $70,000.00 of the funds generated through licensing may be deposited into the horticulture fund each year. The state treasurer shall direct the investments of the horticulture fund. The state treasurer shall credit interest and earnings from horticulture fund investments to the horticulture fund. Assets in the horticulture fund at the close of the fiscal year shall remain in the horticulture fund and shall not lapse to the general fund. The director shall administer the horticulture fund and shall expend money from the horticulture fund, upon appropriation, to provide for research projects, to develop and improve training programs, and to develop outreach materials for the purposes of safeguarding plants or plant products from unwanted plant pests. The director shall administer the horticulture fund with advice and consultation from the horticultural advisory committee created in subsection (5).

(5) There is created a horticulture advisory committee. Members of this committee, to be named by the director, shall include representatives from the horticulture industry.

(6) This section does not apply to persons engaged in fruit growing that are not nursery growers but desire to sell or exchange surplus small fruit plants of their own growing, or to farmers or other persons that may sell or give away wild shade trees, wild shrubs, wild vines, wild hardy perennials, or wild evergreens from their own premises.

(7) The director shall issue an initial or renewal license under this section not later than 90 days after a completed application for the license is received by the department. If the application is considered incomplete by the director, the director shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the director of a deficiency until the date the requested information is received by the director. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license. The director shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under subsection (8).

(8) If the director fails to issue or deny a license within the time required by this section, the director shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time.

(9) The director shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with agricultural issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

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(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (7).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees and registrants under subsection (8).

(10) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing and inspection fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1933, Act 246, Imd. Eff. July 10, 1933;—Am. 1935, Act 232, Eff. Sept. 21, 1935;—CL 1948, 286.209;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 1961, Act 239, Eff. Sept. 8, 1961;—Am. 1962, Act 114, Eff. Mar. 28, 1963;—Am. 1976, Act 235, Imd. Eff. Aug. 4, 1976;—Am. 1982, Act 157, Imd. Eff. May 20, 1982;—Am. 2003, Act 104, Imd. Eff. July 24, 2003;—Am. 2004, Act 273, Imd. Eff. July 23, 2004;—Am. 2007, Act 84, Imd. Eff. Sept. 30, 2007;—Am. 2012, Act 106, Imd. Eff. Apr. 24, 2012.

286.210 Licenses to sell nursery stock; buyers and dealers; certificate to deal in inspected stock, number of licenses.

Sec. 10. Every dealer within the meaning of this act, engaged in the buying and selling of nursery stock in this state, shall secure a license and certificate, first certifying to the director in writing that he will buy and sell only stock which has been duly inspected and certified by the director, or by an inspector approved by the director, and that he will maintain with the director a list of all sources from which he secures his stock. Dealers or nurserymen distributing nursery stock directly or on a consignment basis from more than 1 store or place of business, sales ground or heeling-in ground, or selling nursery stock from motor vehicles or other vehicles traveling about the state, shall secure a license for each place or each traveling vehicle from which nursery stock is sold or distributed, and the licensees described in this section shall pay the inspection fees as provided in this act for each such place.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1933, Act 246, Imd. Eff. July 10, 1933;—Am. 1935, Act 232, Eff. Sept. 21, 1935;—Am. 1937, Act 71, Imd. Eff. June 11, 1937;—CL 1948, 286.210;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 1961, Act 239, Eff. Sept. 8, 1961.

286.211 Nonresident nurseryman, dealer, or grower; license required; fee; waiver; reciprocal agreements; violation as grounds for denial of right to ship nursery stock.

Sec. 11. (1) Each nonresident nurseryman, dealer, or grower, who solicits or takes orders for or sells nursery stock in this state through resident or nonresident agents, shall each year obtain a license from the director, for which the fee shall be as prescribed in section 9. The director may waive the license fee requirement if there is a reciprocal agreement with the appropriate authority of the state in which the applicant's principal place of business is located waiving the requirements for Michigan nurserymen, plant growers, or dealers in that state. The director may enter into reciprocal agreements with responsible officers of other states under which nursery stock owned or handled by nurserymen, plant growers, or dealers of those states may be sold in this state without the payment of the license fee provided for in this section.

(2) The director may deny an out-of-state nurseryman or nursery stock dealer the right to ship nursery stock into this state if the department of agriculture determines that the nurseryman or nursery stock dealer has violated this act or a rule promulgated under this act.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1933, Act 246, Imd. Eff. July 10, 1933;—Am. 1937, Act 71, Imd. Eff. June 11, 1937;—CL 1948, 286.211;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 1956, Act 172, Imd. Eff. Apr. 16, 1956;—Am. 1961, Act 239, Eff. Sept. 8, 1961;—Am. 1976, Act 235, Imd. Eff. Aug. 4, 1976;—Am. 1984, Act 88, Imd. Eff. Apr. 19, 1984;—Am. 2007, Act 84, Imd. Eff. Sept. 30, 2007.

***** *286.212 THIS SECTION IS REPEALED BY ACT 254 OF 2016 EFFECTIVE SEPTEMBER 26, 2016* *****

286.212 Licenses to sell nursery stocks; agent's permit, fee; list of agents, transfer of permits.

Sec. 12. (a) Each agent of a resident or nonresident nurseryman, dealer or grower, who solicits or takes orders for or sells nursery stock in this state, must carry an agent's permit issued by the director upon payment by the principal employing such agent or agents of a $5.00 license fee for each permit issued upon the request of the agent's principal. The agent's permit shall expire on September 1, 1961, and on October 31 of each year thereafter.

(b) Every nurseryman, dealer or grower, who solicits or takes orders or sells nursery stock in this state

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through resident or nonresident agents, shall file and maintain in the office of the director a complete and current list of the names and addresses of all such agents. The list of agents so filed shall be confidential and shall not be divulged by employees of the state department of agriculture, except in case of judicial or quasi-judicial proceedings. Agents' permits may not be transferred.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1935, Act 232, Eff. Sept. 21, 1935;—Am. 1939, Act 332, Eff. Sept. 29, 1939;—CL 1948, 286.212;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 1956, Act 172, Imd. Eff. Apr. 16, 1956;—Am. 1961, Act 239, Eff. Sept. 8, 1961.

286.213 Revocation, suspension or withholding of license or certificate; hearing; appeal.

Sec. 13. The commissioner of agriculture shall at any time have the power to withhold, suspend or revoke any license or certificate for sufficient cause, including any violation of this act or non-conformity with any rule or regulation promulgated under this act. Before withholding, suspending or revoking any license or certificate, the commissioner of agriculture shall give written notice to the applicant for or holder of such license or certificate, stating that he contemplates the withholding, suspending or revocation of same and giving his reasons therefor. Said notice shall appoint a time of hearing before said commissioner and shall be mailed by registered mail to the party holding the license or certificate. On the day of hearing, the respondent may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the commissioner shall decide the question in such manner as to him appears just and right. The respondent, if he feels aggrieved at the decision of the commissioner, may appeal from said decision within 10 days to the circuit court of the county where respondent resides, and issue shall be framed in said court and a trial had and its decision shall be final, unless appeal is had to the supreme court, in which event the said appeal shall conform to the court practice of appeals in civil cases.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1939, Act 332, Eff. Sept. 29, 1939;—CL 1948, 286.213.

286.214 Revocation, suspension or withholding of license or certificate; hearing, order of revocation; penalty for wrongful use of license on certificate, withholding.

Sec. 14. If it is found that any license or certificate issued or approved by the commissioner of agriculture is being used in connection with nursery stock or other plants which have not been inspected, or which are infested with insect pests or infected with plant diseases, or which are being sold and delivered without treatment being given or other precautionary measures prescribed by the commissioner of agriculture being observed by the owner, or is being used by persons other than the one to whom it was issued with the knowledge of the owner without permission of the commissioner of agriculture, the commissioner of agriculture may require the owner of such license or certificate to appear before him, on a date specified, for a hearing to show cause why his license or certificate should not be revoked. If after such hearing, the commissioner of agriculture finds that such license or certificate has been wrongfully used in 1 or more of the ways specified in this section, or if the owner of such license or certificate fails to appear at such hearing he may issue an order revoking such license or certificate and the owner's license and the use of such certificate or license after it has been revoked, shall be unlawful and shall subject the owner thereof to the penalty prescribed in section 26 of this act. The commissioner of agriculture may withhold a license or certificate of inspection from any person applying for the same if such person fails to comply with the requirements of the commissioner of agriculture with reference to freeing his nursery and premises of injurious insect pests and plant diseases and may refuse to certify a nursery if the same is in such condition that it can not be adequately inspected.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.214.

286.215 Tags on stock; inspection of imported stock on request; expense.

Sec. 15. It shall be unlawful for any person, firm, partnership, association or corporation to bring or cause to be brought into this state, or to transport or ship within this state, any nursery stock unless there is plainly and legibly marked thereon or affixed thereto, or on, or to the car or other vehicle carrying, or on the bundle, package, or other container of the same, in a conspicuous place, a statement or a tag or other device showing the names and addresses of the consignor or shipper, and the consignee or person to whom shipped, the general nature of the contents, as well as labels upon each variety as to name and grade as approved by the American Association of Nurserymen and such stock shall be in a live and vigorous condition and of the grade specified, together with a certificate of inspection of the proper official of the state, territory, district, or country from which it was brought or shipped: Provided, however, That if persons to whom stock has been shipped believe said stock to be infected with a contagious disease or infested with a dangerous insect or that said stock does not meet the approved grades, he may call upon the commissioner of agriculture to inspect said stock, and the expenses incurred in making such inspection are paid by such person. Such stock may be

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shipped to the commissioner of agriculture with all transportation charges prepaid, for inspection without any additional expense to the owner other than transportation, drayage and other storage charges when such charges are necessarily incurred.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1935, Act 232, Eff. Sept. 21, 1935;—Am. 1937, Act 71, Imd. Eff. June 11, 1937;—CL 1948, 286.215;—Am. 1955, Act 255, Eff. Oct. 14, 1955.

286.216 Tags on stock; certificate of inspection; unlawful transportation; report to commissioner.

Sec. 16. Every person, firm, partnership, association or corporation who sells or gives away nursery stock in this state is hereby required to attach to the outside of each package, box, bale or carload shipped or otherwise delivered, a tag or poster on which shall appear an exact copy of his valid certificate. It shall be unlawful for any carrier, or driver, or owner of a truck or other vehicle to accept for shipment, or transportation, or to transport any nursery stock from place to place within this state unless such nursery stock has attached thereto a valid official certificate of inspection showing that such stock has been inspected and found apparently free from injurious pests and plant diseases, or that the shipment has been authorized by the commissioner of agriculture: Provided, That nursery stock consigned to the commissioner of agriculture may be offered and accepted for shipment, and shipped without such certificate. In case any nursery stock is shipped or transported by any carrier in this state or into this state from another state, country or province without a valid certificate plainly affixed as aforesaid, the fact shall be promptly reported to the commissioner of agriculture by the person, firm, partnership, association or corporation carrying the same, together with the names of the consignor and the consignee and the nature of the shipment, and such carrier shall return it to the consignor, hold it for instructions from the commissioner of agriculture, or send it to the commissioner of agriculture, with the transportation charges prepaid, for inspection. Any person, firm, partnership, association or corporation receiving nursery stock transported from any point within the state, or any other state, country or province, without a valid certificate affixed as aforesaid, shall at once notify the commissioner of agriculture of the fact, and shall not allow such nursery stock to leave his possession until it has been inspected or released by the commissioner of agriculture, and the expenses incurred in making such inspection are paid by such person, firm, partnership, association or corporation. Such stock may be shipped to the commissioner of agriculture, with all transportation charges prepaid, for inspection without any additional expense to the owner other than transportation, drayage and storage charges when such charges are necessarily incurred.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.216;—Am. 1955, Act 255, Eff. Oct. 14, 1955.

286.216a Definitions; sale, distribution, or use of purple loosestrife.

Sec. 16a. (1) As used in this section:

(a) "Person" means an individual, partnership, corporation, association, governmental entity, or any other legal entity.

(b) "Purple loosestrife" means a nonnative member of the genus Lythrum, or hybrid of that genus.

(2) Except as otherwise provided in this section, in this state, a person shall not sell, offer to sell, or distribute seed from purple loosestrife.

(3) In this state, a person shall not sell at retail or offer to sell at retail any nonnative cultivars of the genus Lythrum, or hybrids of that genus, except for the cultivars of Lythrum virgatum commercially known as rose queen, the rocket, morden pink, morden gleam, morden rose, dropmore purple, or columbia pink.

(4) As of January 1, 1997, retail sales of purple loosestrife are not allowed in this state except for cultivars developed and recognized to be sterile and approved by the director of the department of agriculture.

(5) Notwithstanding subsection (2), (3), or (4), the department of agriculture may issue a permit authorizing a person to conduct research using purple loosestrife.

History: Add. 1995, Act 182, Eff. Mar. 28, 1996.

286.217 Sale of nursery stock; inspection; transportation of nursery stock, wild trees, herbaceous perennials, and shrubs; uninspected stock; shipping documents.

Sec. 17. (1) A person shall not sell within this state any nursery stock unless the nursery stock has been inspected and a certificate issued by the director stating that the nursery stock has been inspected and found apparently free from insect pests and plant diseases. However, a nursery grower or plant grower holding a valid certificate covering nursery stock grown by him or her may ship under the certificate nursery stock grown for him or her elsewhere or purchased by him or her from other states or countries, if all of the nursery stock is received under a certificate acceptable to the director that states that it has been inspected where grown and found to be apparently free from insect pests and diseases. The director may also inspect or

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reinspect at any time or place any nursery stock shipped within this state or shipped into this state as provided in this section. Except as provided in this subsection, a person shall not ship into or transport within this state any nursery stock unless it has first been inspected by the director. In the case of plants moving from a nursery or other premises, a tag bearing a valid certificate issued to the nursery grower or person owning or in charge of other premises from where the plants have been moved shall be in plain sight and attached to some of the plants on the vehicle used to transport the plants. All wild trees, herbaceous perennials, and shrubs taken up from a person's woodlots, forests, or other premises other than a nursery, when being shipped into or transported on the highways of this state, shall have attached to each plant a special tag furnished at cost by the director, which tag shall not be removed from the plant or plants after they are replanted, and shall have plainly printed on the tag the fact that this plant is of wild stock and is not nursery grown and this information shall be clearly and legibly stated in all advertising media offering the plant for sale. Carrying uninspected nursery stock in vehicles is prohibited, and the director may post signs on the highways warning tourists and other carriers against the transportation of wild trees, herbaceous perennials, and shrubs and he or she may cooperate with the department of natural resources and seek the cooperation of the Michigan state police or local law enforcing officials in the enforcement of this act.

(2) A person receiving or selling nursery stock on a wholesale basis shall maintain shipping documents including certificates of inspection of the nursery stock for a period of 36 months after the date of receipt or sale, whichever is later. A person that receives nursery stock on a retail basis is not subject to this subsection.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1933, Act 246, Imd. Eff. July 10, 1933;—CL 1948, 286.217;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 1961, Act 239, Eff. Sept. 8, 1961;—Am. 2012, Act 106, Imd. Eff. Apr. 24, 2012.

286.218 Nuisances; public places kept free from injurious insect pests and plant diseases; insects, fungi, bacteria, nematodes, viruses or living plant parasitic organisms; permits.

Sec. 18. (a) All injurious insect pests and plant diseases which are liable to spread to other plants, plant products or places to the injury thereof, or to the injury of man and animals, and all trees, shrubs, vines, fruit plants, cuttings, scions, grafts, plants and plant parts, plant products and places within this state, infested with such injurious insect pests and plant diseases, and all species and varieties of trees, shrubs, vines, and other plants not essential to the welfare of the people of the state which may serve as favorable host plants, and promote the prevalence and abundance of insect pests and plant diseases, or any stage thereof, destructively injurious to other plants essential to the welfare of the people of the state, are hereby declared to be a nuisance; and all persons owning or controlling lands or places in this state, and all public authorities having jurisdiction over streets, highways, parks, and other public places shall keep the same free from all injurious insect pests and plant diseases and all species and varieties of plants declared by the provisions of this section to be a nuisance.

(b) No person shall sell, barter, offer for sale, or move, transport, deliver, ship, or offer for shipment, into or within this state any living insects in any stage of their development, or living fungi, bacteria, nematodes, viruses or other living plant parasitic organisms without first obtaining a permit from the commissioner of agriculture. Such permit shall be issued only after the commissioner of agriculture has determined that the insects or living bacteria, fungi, nematodes, viruses or other plant parasitic organisms in question are not injurious to plants or plant products, if not already present in the state, or have not been found to be seriously injurious to warrant their being refused entrance or movement, if known to be already established within the border of the state: Provided, That the commissioner of agriculture may at his discretion exempt the sale and transportation of specific insects, fungi, bacteria, and other plant parasitic organisms from the provisions of this section if such sale and transportation is not considered harmful to the health and welfare of the people of the state.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.218;—Am. 1955, Act 255, Eff. Oct. 14, 1955.

286.219 Barberry, mahonia or mahoberberis bushes subject to black stem rust of small grains; destruction; rules.

Sec. 19. It shall be unlawful for any person or persons, firm or corporation to keep upon their premises or upon any premises under their control or charge any barberry, mahonia or mahoberberis bushes, which are subject to the attack of black stem rust of small grains. If the commissioner of agriculture or his assistants, shall find upon any premises any mahonia, mahoberberis or barberry varieties of species subject to the black stem rust of small grains, they are hereby authorized to destroy the same without indemnity to the property owner. The commissioner of agriculture is hereby authorized to promulgate rules and regulations relative to the sale, distribution, transportation or planting of barberry, mahonia and mahoberberis plants or parts thereof and seeds and the movement, planting or growing of black stem rust susceptible species and varieties of barberry, mahonia or mahoberberis shall be deemed a violation of this act.

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History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1933, Act 246, Imd. Eff. July 10, 1933;—CL 1948, 286.219;—Am. 1955, Act 255, Eff. Oct. 14, 1955.

Administrative rules: R 285.617.1 of the Michigan Administrative Code.

286.219a Chokecherry harmful to peach or cherry trees prohibited; destruction; rules.

Sec. 19a. (1) A person, firm, association, corporation, or partnership shall not keep upon premises owned or under the control of the person, firm, association, corporation, or partnership a chokecherry, prunus virginiana, which, in the judgment of the director, would be harmful to peach or cherry trees in the area.

(2) For the purposes of this act, a chokecherry within a distance that the director shall establish shall be considered primary host for "X" disease, yellow red virosis, whether or not the chokecherry shows visible symptoms of the disease. The director or the director's assistant may destroy the chokecherry without indemnity to the property owner. The director shall promulgate rules concerning the sale, distribution, transportation, or planting of chokecherry seeds and plants or the parts of the plants. The movement, planting, or growing of chokecherry which is in violation of the rules constitutes a violation of this act.

(3) The director shall promulgate rules that will allow the owner of peach or cherry trees to enter on the property of another, upon the permission of that property owner, to destroy a chokecherry that the director or the director's assistant believes should be destroyed. The owner of the property upon which the chokecherry is located shall be held harmless for an accident that may occur while a person is working on the property in accordance with this act.

History: Add. 1978, Act 123, Imd. Eff. Apr. 25, 1978.

286.220 Insect pests and plant diseases; eradication of nuisances; notice; abatement; inspection; payment of expenses.

Sec. 20. (1) If the director shall determine that any species or variety of tree, shrub, vine or other plant growing within this state is a host plant nuisance as defined in section 18, and if in the judgment of the director such species or variety of plant should be eradicated from this state or from any section thereof, in order to safeguard the other plants and plant products of the state or any section thereof, he shall give public notice thereof, designating the species or variety of plant, the eradication of which is proposed, the section of the state involved, and the reasons why the eradication of such plant is necessary. The notice shall also designate a place and a time, which time shall not be less than 30 days after the date of such notice, for a public hearing, at which all persons in the state interested in the proposed action of the director may be heard. If after such hearing the director shall determine that such species or variety of plant should be eradicated, he shall give public notice of the fact, naming the species or variety of plant to be eradicated, describing the boundaries of the section of the state from which such species or variety of plant shall be eradicated, and the date when such notice shall become effective. The director shall also give written notice of the facts to any owner, or other person in charge of the property or place where such nuisance is found; which notice shall specify the condition constituting such nuisance and the method by which and the time within which such nuisance shall be abated. The owner or person in charge shall proceed to remove, cut, destroy or otherwise completely eradicate the host plant constituting the nuisance within the time and in the manner described in such notice. Whenever such owner or other person cannot be found, or shall fail, neglect or refuse to obey the requirements of the notice, the director may proceed to abate such nuisance; and in so doing, the director is authorized to treat, remove, cut or destroy the host plant nuisance. Certain plants and plant products included in the classification of host plant nuisances and not actually infested or infected may be permitted by the director to remain without eradication until such time as they become infested or infected.

(2) If the director has reason to believe that any article, except one which could serve as a favorable host plant, is a nuisance as defined by section 18 or that such a nuisance, either alone or in combination with a host plant, exists on any premise or area or is in transit in this state, he may inspect or cause to be inspected by a person or device any such article, premise or area. If he finds by inspection that such nuisance exists, he may give notice to the owner, possessor or person in charge of such article or premise, and after expiration of the time stated in the notice, may seize, quarantine, treat or otherwise dispose of such nuisance in a manner deemed necessary to suppress, control, eradicate or to prevent or retard the spread of an insect pest or plant disease, or he may order the owner, possessor or person in charge to so treat or otherwise dispose of the pest or article. The notice shall be given at least 10 days prior to such action and may be given by personal service, mail or newspaper publication as the director deems expedient.

(3) The director may employ the necessary aid in abating any nuisance under this section and he may render a bill against the owner for the expense incurred. If the owner refuses to pay the bill, it shall be certified to the local assessing officer and assessed against the property.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.220;—Am. 1961, Act 239, Eff. Sept. 8, 1961;—Am. 1967, Act 11, Imd.

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Eff. June 2, 1967.

286.221 Inspection of public grounds; application, payment of expense.

Sec. 21. Any municipality, park board, or other board or person in control of public grounds may apply to the commissioner of agriculture for an inspection of the same with reference to the presence of insect pests or plant diseases; and upon receipt of such application, or as soon thereafter as may be conveniently practicable, the commissioner of agriculture shall comply with such request, and send to such applicant a statement as to the facts disclosed, with any recommendations which the commissioner of agriculture may deem pertinent. The expense of the special inspection shall be paid by the applicant.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.221.

286.222 Inspection of plants and plant products before interstate shipment; request; expenses; certificate.

Sec. 22. A person that wishes to ship plants or plant products into another state or country may request that the director inspect the plants or plant products for insect pests or diseases or other factors likely to prevent the acceptance of the plants or plant products in that state or country. The request shall include an agreement to pay in full the expenses of the inspection. Upon receipt of a request and agreement under this section, or as soon thereafter as may be conveniently practicable, the director shall comply with the request and, upon the receipt of the expenses of the inspection, shall issue to the applicant a certificate to the facts disclosed.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.222;—Am. 1955, Act 255, Eff. Oct. 14, 1955;—Am. 2012, Act 106, Imd. Eff. Apr. 24, 2012.

286.223 Quarantine; enforcement, hearing, notice.

Sec. 23. The commissioner of agriculture when he shall find that there exists in any other state, territory, or district, or part thereof any dangerous plant disease or insect infestation with reference to which the secretary of agriculture of the United States has not determined that a quarantine is necessary and duly established such quarantine, he is hereby authorized to promulgate, and to enforce by appropriate rules and regulations, a quarantine prohibiting or restricting the transportation into or through the state, or any portion thereof, from such other state, territory, or district, of any class of nursery stock, plant, fruit, seed, or other article of any character whatsoever, capable of carrying such plant disease or insect infestation. The commissioner of agriculture is hereby authorized to make rules and regulations for the seizure, inspection, disinfection, destruction, or other disposition of any nursery stock, plant, fruit, seed, or other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, a quarantine with respect to which shall have been established by the secretary of agriculture of the United States, and which have been transported to, into or through this state in violation of such quarantine. The notice of any hearing and the promulgation of any quarantine provided for in this section shall be by publication in 1 or more newspapers in circulation in the area affected: Provided, That any person within the state holding a license under the provisions of this act shall be mailed notice of such hearing or promulgation by the commissioner of agriculture. The commissioner of agriculture is hereby authorized and empowered to seize and hold for use as evidence any article or thing found in the possession of or used, held for shipment, shipped, offered for sale or sold by any person in violation of any of the provisions of this act.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1939, Act 332, Eff. Sept. 29, 1939;—CL 1948, 286.223.

Administrative rules: R 285.606.1 and R 285.620.1 of the Michigan Administrative Code.

286.223a Rules.

Sec. 23a. The director may promulgate rules to implement this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: Add. 1984, Act 88, Imd. Eff. Apr. 19, 1984.

286.223b Rescission of R 285.607, R 285.611, R 285.613, and R 285.618.

Sec. 23b. R 285.607, R 285.611, R 285.613, and R 285.618 of the Michigan administrative code are rescinded.

History: Add. 2012, Act 97, Imd. Eff. Apr. 12, 2012.

286.224 Violation of act; penalty, quarantine, misdemeanor.

Sec. 24. Any person, firm, partnership, association or corporation violating any of the provisions of this act or of any quarantine, or rules or regulations supplemental thereto, issued by the commissioner of agriculture in pursuance of this section shall be deemed guilty of a misdemeanor and subject to the penalties prescribed in

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section 26 of this act.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.224;—Am. 1955, Act 255, Eff. Oct. 14, 1955.

286.225 Review of rule or order; appeal to circuit court.

Sec. 25. Any person, firm, partnership, association or corporation affected by any rule, regulation or order made or served pursuant to this act may have a review of the same by the commissioner of agriculture and from his decision may appeal to the circuit court for the purpose of having such rule, regulation or order modified or suspended. Application for such review may be made to the commissioner of agriculture in writing within 10 days after the receipt of notice of such rule, regulation or order; and such review shall be allowed and considered by the commissioner of agriculture at such time and place and under rules and regulations as the commissioner of agriculture may prescribe.

History: 1931, Act 189, Eff. Sept. 18, 1931;—CL 1948, 286.225;—Am. 1955, Act 255, Eff. Oct. 14, 1955.

286.226 Violation of act; penalty.

Sec. 26. Any person, firm, partnership, association or corporation who shall violate any of the provisions of this act with reference to the sale, shipment, transportation, receipt or delivery of nursery stock without inspection or certificate, or with reference to treatment of nursery stock, plants, plant products, or other property, or who shall forge, counterfeit, deface, alter, destroy or wrongfully use a certificate provided for in this act, or who shall use a certificate belonging to another person without the consent of the commissioner of agriculture; or who shall use a certificate after it has been revoked or has expired; or who fails to secure a license as provided for in section 9 of this act; or who shall violate any quarantine, or rule, regulation or order of the commissioner of agriculture provided for in this act; or who shall maintain a nuisance after receiving notice from the commissioner of agriculture to abate the same, or shall fail or neglect to use such measures of arrest and control of injurious insect pests and plant diseases as are required of him by the commissioner of agriculture; or who shall offer any hindrance or resistance to the carrying out of this act, or shall violate any other provision thereof, shall be adjudged guilty of a misdemeanor, and upon conviction be fined not less than $25.00 nor more than $100.00 for each and every offense, or if the fine is not paid, a prison sentence in the county jail may be authorized at the discretion of the court.

History: 1931, Act 189, Eff. Sept. 18, 1931;—Am. 1933, Act 246, Imd. Eff. July 10, 1933;—Am. 1935, Act 232, Eff. Sept. 21, 1935;—CL 1948, 286.226;—Am. 1955, Act 255, Eff. Oct. 14, 1955.

286.228 Violation of certain laws, rules, or orders; civil infraction; fines; limitation; misdemeanor; felony; liability; "person" defined; applicability.

Sec. 28. (1) A person, other than a person who is required to be licensed under this act, who violates section 20 or an order issued under section 20 is responsible for a state civil infraction and shall be fined not more than $1,000.00 plus expenses incurred by the department in abating the nuisance.

(2) If a person who is required to be licensed under this act violates section 20 or an order issued under this section 20, the director shall impose on the person an administrative fine of not more than $1,000.00 plus expenses incurred by the department in abating the nuisance.

(3) A person, other than a person who is required to be licensed under this act, who violates section 23 or a rule promulgated or regulation issued under section 23, or who violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the United States department of agriculture, is responsible for a state civil infraction and shall be fined not less than $1,000.00 or more than $10,000.00. However, if the person voluntarily reported the violation to the department before it was otherwise known to the department or the person had reason to believe the violation was about to become known to the department, the person shall be fined not more than $500.00.

(4) If a person who is required to be licensed under this act violates section 23 or a rule promulgated or regulation issued under section 23, or violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the United States department of agriculture, the director shall impose on the person an administrative fine of not less than $1,000.00 or more than $10,000.00. However, if the person voluntarily reported the violation to the department before it was otherwise known to the department or the person had reason to believe the violation was about to become known to the department, the director shall impose on the person an administrative fine of not more than $500.00.

(5) Beginning September 1, 2005, a person who knowingly violates section 23 or an order issued or rule promulgated under section 23, or who knowingly violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the

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United States department of agriculture, is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than $1,000.00 or more than $10,000.00.

(6) Beginning September 1, 2005, a person who intentionally violates section 23 or an order issued or rule promulgated under section 23, or who intentionally violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the United States department of agriculture, for the purpose of causing damage to plants, plant products, natural resources, or agricultural, silvicultural, or horticultural products or resources, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $250,000.00, or both.

(7) A person who violates section 23 or a rule promulgated or order issued under section 23, or who violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the United States department of agriculture, is liable for any damages to plants, plant products, natural resources, or agricultural, silvicultural, or horticultural products or resources resulting from the violation, including, but not limited to, costs incurred to investigate, monitor, prevent, or minimize such damages.

(8) As used in this section, "person" means that term as defined in section 16a.

(9) Beginning September 1, 2005, violations described in this section are not subject to section 24 or 26.

History: Add. 2005, Act 53, Imd. Eff. June 27, 2005.

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INSECT PESTS AND PLANT DISEASES
Act 72 of 1945

AN ACT to prevent the importation from other states, and the spread within this state, of all serious insect pests and contagious plant diseases and to provide for their repression and control, imposing certain powers and duties on the commissioner of agriculture; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts.

History: 1945, Act 72, Eff. Sept. 6, 1945;—Am. 2005, Act 52, Imd. Eff. June 27, 2005.

The People of the State of Michigan enact:

286.251 Examinations for insects or infectious diseases; marking; notice to destroy, posting; appeals.

Sec. 1. It shall be the duty of the commissioner of agriculture whenever it comes to his attention that any of the dangerous insects or infectious diseases exist or are supposed to exist within this state to proceed without delay to examine the trees, shrubs, vines, plants, or fruits supposed to be infested or infected and all other such trees, shrubs, vines, plants, or fruit as he may deem advisable. If upon examination destructive insects or dangerously infectious diseases are found to exist, a distinguishing mark shall be placed on the trees, shrubs, vines, or plants and a written notice shall be served upon the owner or his agent with recommendations. When the owner or his agents cannot be found it shall be the duty of the commissioner of agriculture or his deputies to give general notice in the following manner to every owner, possessor, or occupier of land and to every person or persons, firm or corporation having charge of any land in this state, whereon neglected, abandoned, or semi-abandoned fruit trees are growing, to cut and destroy such plants; 4 notices each not less than 1 foot square shall be printed in clear readable type and posted 1 in each of 4 conspicuous places in the area, at least 1 to be on the property. The posting of such notices shall take place at least 15 days prior to the date upon which the trees must be cut. At the time of posting said notices a copy of the same shall be mailed to every owner, possessor or occupant or occupier of land and to every person or persons, firm or corporation financially interested therein, or having charge of any lands in this state, whereon neglected or abandoned trees are growing, whose postoffice address is known.

In case the owner refuses to accept the opinion of the inspector or inspectors, regarding the nature of an insect or a disease, or the remedy that shall be employed he may appeal, within 10 days, to the commissioner of agriculture by serving a written notice of such appeal. The commissioner of agriculture shall as soon as practicable investigate the matter and order the proper treatment, and his opinion or orders shall be final. In cases where the owner appeals to the commissioner of agriculture, and the findings of the original inspector or inspectors are approved, the expense incurred as a result of appeal shall be paid by the owner.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.251.

286.252 Orders of commissioner; refusal to carry out.

Sec. 2. In case the owner, or person in charge of the trees, shrubs, vines or plants, infested with a destructive insect or dangerously contagious disease, refuses or neglects to carry out the orders of the commissioner of agriculture within the period stated in the notice served upon him, the commissioner of agriculture shall employ such aid as may be necessary to carry out his own orders.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.252.

286.253 Declaration as public nuisances.

Sec. 3. Any and all neglected or abandoned trees, vines, shrubs, plants or parts thereof, which because of the existence therein or thereon of injurious or destructive insect pests, or plant diseases or other conditions which may constitute a menace to the horticulture or agriculture of the county, district, or vicinity or which are host plants of or provide a favorable and likely harbor for such pests or diseases, which, if they become established upon such neglected or abandoned host plants or crops, would be a menace to agriculture or horticulture, are hereby expressly declared to be public nuisances, and it shall be unlawful to maintain the same, and all remedies which are or may be given for the prevention or abatement of the nuisance shall apply thereto.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.253.

286.254 Report of inspections.

Sec. 4. Whenever the commissioner of agriculture shall determine by inspection that there exists on any property or premises within his jurisdiction any trees, vines, shrubs, plants, or parts thereof, which are or have

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been neglected or abandoned, which because of the existence therein or thereon of injurious or destructive insect pests or plant diseases, or other conditions constitute a menace to the horticulture or agriculture of the county, district, or vicinity, he shall make a complete report of his inspection, setting forth in such report a description of the property or premises upon which the neglected or abandoned pest host exists, naming the pest or pests or other conditions which in his opinion are dangerous to the horticulture or agriculture of the county, district, or vicinity and, if in his judgment the findings justify, he shall state in such report that the removal or destruction of the neglected or abandoned trees, vines, shrubs, plants, or parts thereof, will provide the best means for the elimination of such menace to the horticulture and agriculture of the county, district or vicinity.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.254.

286.255 Authority to enter upon premises; treatment to prevent spread of disease; owners recompensed for loss.

Sec. 5. The director of the department of agriculture and his or her inspectors, deputies, assistants, and employees may enter upon any premises in the state for the purpose of examining trees, shrubs, vines, and plants for the presence of destructive insects or diseases, and, if any such insects or diseases are found, may, under the provisions of this act, take the steps as may be necessary to exterminate them. No damage shall be awarded for the destruction of any trees, shrubs, vines, plants, or fruit or for injury to same if done by the director of the department of agriculture or his or her authorized inspectors and assistants, in accordance with the provisions of this act, and the director considers it necessary in order to suppress dangerous insects and diseases, when the trees, shrubs, vines, and plants have already been attacked by dangerous insects or diseases. Whenever any dangerous plant disease, or destructive insect, which is new to or which has not become widely prevalent or distributed through or within the state is found upon any trees, shrubs, vines, or plants, in case it is considered necessary in order to prevent the spread and the dissemination of said insect, or disease, the director of the department of agriculture may cause any tree, shrub, vine, or plant likely to be attacked by such insect or disease, and which are growing within 3,000 feet of where the dangerous insect or disease has been found, to be treated with approved remedies, or, if this is not feasible, to be destroyed. However, if it becomes necessary to destroy any trees, shrubs, vines, or plants which have not already become attacked by said new and dangerous insect or disease, the owner shall be recompensed for their actual value, the amount to be fixed by 3 parties, 1 to be selected by the owner, another by the director of the department of agriculture, and the third party to be selected by the other 2 so selected. The amount awarded, when approved by the director of the department of agriculture, shall be certified to the state treasurer, who shall draw a warrant on the state treasurer for the payment of the same from the general fund of the state.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.255;—Am. 2002, Act 175, Imd. Eff. Apr. 23, 2002.

286.256 Commissioner may make rules and regulations; quarantines.

Sec. 6. The commissioner of agriculture is hereby authorized to make such rules and regulations and establish such quarantines as he shall deem necessary for the proper enforcement of this act, and all orders, rules and regulations promulgated by the commissioner of agriculture pursuant to the act shall have the force and effect of law.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.256.

Administrative rules: R 285.613.1 et seq. and R 285.620.1 of the Michigan Administrative Code.

286.257 Liability of agent.

Sec. 7. In construing and enforcing provisions of this act, the act, omission or failure of any official, agent, or other person acting for, or employed by, any association, partnership or corporation within the scope of his employment or office, shall in every case also be deemed the act, omission or failure of such association, partnership or corporation, as well as of the person.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.257.

286.259 Violation of act; misdemeanor; penalty; applicability of subsection (1).

Sec. 9. (1) Subject to subsection (2), a person who maintains a public nuisance in violation of section 3 or otherwise violates this act is guilty of a misdemeanor punishable by a fine of not less than $25.00 or more than $100.00 or by imprisonment for not more than 90 days, or both.

(2) Beginning September 1, 2005, subsection (1) does not apply to a violation described in section 10.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.259;—Am. 2005, Act 52, Imd. Eff. June 27, 2005.

286.260 Violation of rule or order; civil infraction; fine; misdemeanor; felony; penalties;

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liability.

Sec. 10. (1) A person who violates a rule promulgated or order issued under this act that requires the destruction of plants is responsible for a state civil infraction and shall be fined not more than $1,000.00 plus expenses incurred by the department in destroying the plants.

(2) A person who violates a quarantine rule promulgated or quarantine order issued under this act is responsible for a state civil infraction and shall be fined not less than $1,000.00 or more than $10,000.00. However, if the person voluntarily reported the violation to the department before it was otherwise known to the department or the person had reason to believe the violation was about to become known to the department, the person shall be fined not more than $500.00.

(3) Beginning September 1, 2005, a person who knowingly violates a quarantine rule promulgated or quarantine order issued under this act is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than $1,000.00 or more than $10,000.00.

(4) Beginning September 1, 2005, a person who intentionally violates a quarantine rule promulgated or quarantine order issued under this act, for the purpose of causing damage to plants, natural resources, or agricultural, silvicultural, or horticultural products or resources, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $250,000.00, or both.

(5) A person who violates a quarantine rule promulgated or quarantine order issued under this act is liable for any damages to plants, natural resources, or agricultural, silvicultural, or horticultural products or resources resulting from the violation, including, but not limited to, costs incurred to investigate, monitor, prevent, or minimize such damages.

History: Add. 2005, Act 52, Imd. Eff. June 27, 2005.

EUROPEAN CORN BORER
Act 196 of 1925

286.301-286.305 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

EUROPEAN CORN BORER
Act 76 of 1929

286.321,286.322 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

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CHEMICAL LABORATORIES; FRUIT PROTECTION
Act 137 of 1935

AN ACT to provide for the protection of the public health; to promote the fruit growing industry; to assist in the marketing of fresh fruit; to provide for the establishing of temporary chemical laboratories in the fruit growing sections during the harvesting and shipping season, in order to control excess poisonous spray residue on fruit; to provide for the payment of inspection fees for chemical analyses; to issue clearance certificates on lots of apples and other fruits prepared for shipment; to make an appropriation therefor, and to prescribe the duties and powers of the commissioner of agriculture.

History: 1935, Act 137, Imd. Eff. June 4, 1935.

The People of the State of Michigan enact:

286.341 Chemical laboratories; fruit growing sections; poisonous spray residue; examination, certificate, fees.

Sec. 1. The commissioner of agriculture is hereby empowered to establish temporary chemical laboratories in fruit growing sections during the harvesting and shipping season for the purpose of examining fruit and determining the amount of poisonous spray residue thereon, and in the case of lots of fruit prepared for shipment to collect representative samples from such lots; to cause to be made chemical analyses for poisonous spray residue remaining on the fruit and in the event, as the result of such examination on representative samples, that prohibited poisonous spray residue does not exceed the maximum tolerance allowed therefor by the secretary of agriculture of the United States; to cause to be issued a certificate stating that fact. Certificates issued will be and are applicable only to such designated lots as have been appropriately numbered and identified. The owner of such lot of fruit shall pay such reasonable fees for the examination and issuance of certificate as is determined by the commissioner of agriculture.

History: 1935, Act 137, Imd. Eff. June 4, 1935;—CL 1948, 286.341.

Administrative rules: R 285.202.1 of the Michigan Administrative Code.

286.342 Chemical laboratories; voluntary submission of samples; fee; certificate.

Sec. 2. Growers of fruit may submit to any temporary chemical laboratory samples of fruit for analyses for spray residue in order to determine the conditions that prevail as a result of spraying practices, upon the payment of a reasonable fee for each sample submitted. The results of the analyses of such samples from individuals, corporations or firms shall be reported direct to the grower or parties submitting the samples but in no case shall a certificate be issued on a lot of fruit as a result of the submission of informative samples by individuals.

History: 1935, Act 137, Imd. Eff. June 4, 1935;—CL 1948, 286.342.

286.343 Chemical laboratories; establishment by private concerns; supervision, regulations.

Sec. 3. The commissioner of agriculture shall have supervision over any chemical laboratory established by any cooperative exchange, growers' exchange, or other business engaged in the harvesting, grading, packing or selling of fruit, for the analyses of fruit for spray residue, and shall cause such firm or individual to register with the department of agriculture. Upon registration and demonstration of ability for the sampling, examination and chemical analyses of fruit for spray residue, such firms or individuals may be permitted to charge fees for the examination of samples of fruit on a basis similar to that charged by the commissioner of agriculture, and report the results of their findings to the owner of such fruit. No certificate attempting to show the presence or amount of arsenic, lead, fluorine, or any other dangerous chemical shall be valid unless issued by authority of the commissioner of agriculture.

History: 1935, Act 137, Imd. Eff. June 4, 1935;—CL 1948, 286.343.

286.344 Appropriation for state chemical laboratories.

Sec. 4. There is hereby appropriated the sum of 25,000 dollars for the fiscal year ending June 30, 1936, and a sum not exceeding 10,000 dollars for the year ending June 30, 1937: Provided, That in no event shall these appropriations exceed the fees collected herein to carry into effect the intent and purpose of this act. All moneys derived from fees shall be deposited to the credit of the general fund, and all expenditures incurred on account of the provisions of this act shall be from appropriations made herein.

History: 1935, Act 137, Imd. Eff. June 4, 1935;—CL 1948, 286.344.

286.345 Rules and regulations; enforcement by commissioner of agriculture.

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Sec. 5. The commissioner of agriculture is charged with the enforcement of this act and is hereby empowered to promulgate such reasonable rules and regulations as are necessary to carry into effect the intent and purpose of this act.

History: 1935, Act 137, Imd. Eff. June 4, 1935;—CL 1948, 286.345.

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FRUITS AND VEGETABLES; CONTROLLED ATMOSPHERE STORAGE
Act 228 of 1959

AN ACT to promote the development of the Michigan fruit and vegetable industry; to define certain types and methods of fruit and vegetable storage; to prohibit the sale of fruits and vegetables misbranded as to type of storage; to provide for records; to provide for licensing of certain fruit and vegetable storage facilities; to provide for registration and permits for packers or repackers; to provide for revocation of licenses; to provide for the enforcement of this act; and to provide penalties for violation of this act.

History: 1959, Act 228, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

286.371 Definitions.

Sec. 1. As used in this act:

(a) "Apples" means all varieties of apples.

(b) "Controlled atmosphere storage" means the storage of fruits or vegetables in an approved sealed storage room or in an approved sealed storage building, or in a sealed storage space within the room or building, under controlled conditions of time in days, oxygen content, carbon dioxide content, and temperature as established by this act or rules adopted under this act. The term controlled atmosphere may be referred to by the initials "CA" or similar terms or abbreviations.

(c) "Director" means the director of the Michigan department of agriculture or his or her designated agents.

(d) "Sealed storage room", "sealed storage space", or "sealed storage building" means sealed storage spaces in which controlled atmosphere is maintained, inferred, advertised, or represented as having a controlled atmosphere.

History: 1959, Act 228, Eff. Mar. 19, 1960;—Am. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

286.372 Controlled atmosphere storage for fruits and vegetables; prohibited representations.

Sec. 2. A person or other legal entity shall not sell, label, describe, advertise, offer, expose, exchange, or transport fruits or vegetables for sale represented as having been held under controlled atmosphere storage conditions as specified in this act, alone or with other words, or use any such terms or form or words or symbols of similar import on any container or lot of fruits or vegetables advertised, sold, offered for sale, or transported for sale within this state unless the fruits or vegetables have been stored in compliance with the provisions of this act and rules promulgated by the director.

History: 1959, Act 228, Eff. Mar. 19, 1960;—Am. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

286.372a Construction of storage room, space, or building; installation and maintenance of thermometer; accessibility of gas analyzer.

Sec. 2a. (1) Each sealed storage room, sealed storage space, or sealed storage building used as a controlled atmosphere storage facility for fruits or vegetables shall be constructed of materials that will allow for the establishment and maintenance of the required levels of carbon dioxide, oxygen, and temperature and that are acceptable to the director.

(2) Each sealed storage room, sealed storage space, or sealed storage building shall have a Fahrenheit thermometer properly installed and maintained. An approved gas analyzer for the measurement of carbon dioxide and oxygen gases shall be readily accessible to all sealed rooms or units.

History: Add. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

286.373 Record; location; contents; review.

Sec. 3. (1) A person or other legal entity storing fruits or vegetables in a sealed storage room shall keep a daily record at a convenient location adjacent to the storage room, storage space, or storage building from the day of sealing the room, space, or building to the day of opening of the storage room, space, or building.

(2) The daily records kept under subsection (1) shall indicate the atmospheric conditions in each sealed storage space from the date of sealing until the date the space is opened. The daily records shall indicate the date and time of recording, the temperatures in degrees Fahrenheit, the percentages of carbon dioxide, and the percentage of oxygen.

(3) The daily record shall be subject to review by the director at any time for a period of at least 1 year from date of sealing.

History: 1959, Act 228, Eff. Mar. 19, 1960;—Am. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

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286.374 Rules and regulations.

Sec. 4. The director may promulgate rules and regulations regarding the controlled atmosphere storage of fruit or vegetables pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1959, Act 228, Eff. Mar. 19, 1960;—Am. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

286.374a Sealed storage room; conditions.

Sec. 4a. (1) A person or other legal entity desiring to maintain a licensed sealed storage room shall notify the director within 5 days after the date of sealing. The oxygen within the sealed storage room maintained for apples shall be 5% or lower within 14 days after the storage room is sealed by the operator. An operator shall make available for inspection, upon request of the director, the daily record for the sealed storage rooms.

(2) Except as otherwise provided in subsection (3), the apples shall be stored in a continuously sealed storage room that does not have more than 5% oxygen for a minimum period of 60 days, except that gala and jonagold varieties may be removed from storage in not less than 45 days.

(3) The oxygen level in any sealed storage room maintained for apples may be more than 5% for an accumulated time not to exceed 10 days (240 hours) during the storage period. If the atmospheric conditions have been interrupted, the minimum storage period shall be increased to 70 days for all fruit except for gala and jonagold, which shall have a minimum storage period of 55 days.

(4) All sealed storage rooms maintained for apples shall be sealed by the operator. To qualify for "CA" storage, the room must be sealed on or before November 15 of the storage year. At the time of inspection by a department representative, the representative must place an official seal on the door. An operator shall not break the seal and shall not enter the storage room during the days required for the sealed storage period, except as provided in subsection (3). If interruptions in atmospheric conditions occur, the operator shall notify the department within 48 hours after the atmospheric conditions in the sealed storage room are interrupted. Sealed storage rooms whose atmospheric conditions were interrupted may be resealed by an authorized representative of the department.

(5) The air temperature of any sealed storage room maintained for apples shall not exceed 35 degrees Fahrenheit for jonathan, rome beauty, delicious (all), and stayman varieties and the temperature shall not exceed 41 degrees Fahrenheit for all other varieties during the interruption period.

History: Add. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

286.375 Controlled atmosphere storage for fruits and vegetables; license, application, fee, inspection, expiration, renewal, exemption.

Sec. 5. (1) A person or other legal entity shall not operate any sealed type storage room for fruits or vegetables where controlled atmosphere is used without first obtaining a license from the director for each sealed storage room. An application for license shall be made on forms furnished by the director.

(2) A fee of $35.00 per room shall accompany each application. The director shall not issue a license under this act unless the director or his or her authorized agent has inspected the storage facilities and found those facilities to be in compliance with this act and rules promulgated under this act.

(3) All licenses expire on November 15 of the year after issue and may be renewed annually unless the license is revoked or suspended.

(4) Fruits or vegetables not represented as controlled atmosphere storage are not required to be in compliance with the requirements of this act.

History: 1959, Act 228, Eff. Mar. 19, 1960;—Am. 1969, Act 69, Imd. Eff. July 21, 1969;—Am. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

286.376 License; denial, suspension, or revocation; notice and opportunity for hearing; administrative fine; warning; action by attorney general to recover fine; injunction; disposition of payments.

Sec. 6. (1) In addition to any other penalties or sanctions provided for by law, the director after notice and opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, may deny, suspend, or revoke a license for any sealed storage room, space, or building that had not been operated, or is not prepared to be operated, in compliance with this act or any rules issued under this act.

(2) The director, upon finding after notice and opportunity for a hearing that a person has violated any provision of this act, may impose an administrative fine of not more than $1,000.00 for each violation.

(3) If the director finds that a person or firm has violated provisions of the act despite the exercise of due care, the director may issue a warning instead of imposing an administrative fine.

(4) The director shall advise the attorney general of the failure of a person to pay an administrative fine

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imposed under this section. The attorney general shall bring an action in a court of competent jurisdiction to recover the fine.

(5) The director may bring an action to enjoin the violation or threatened violation of this act or a rule promulgated pursuant to this act in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

(6) Any civil penalties or recovery of any economic benefits associated with a violation of this act and collected under this section shall be paid to the state treasury and credited to the department for the enforcement of this act.

History: 1959, Act 228, Eff. Mar. 19, 1960;—Am. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

286.377, 286.378 Repealed. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

Compiler's note: The repealed sections pertained to labeling requirements, registration numbers, and permits.

286.379 Violation of act as misdemeanor; penalty.

Sec. 9. Any person or other legal entity who violates any of the provisions of this act is guilty of a misdemeanor punishable by a fine of not less than $200.00 or more than $5,000.00 or by imprisonment for not more than 90 days.

History: 1959, Act 228, Eff. Mar. 19, 1960;—Am. 2000, Act 53, Imd. Eff. Mar. 30, 2000.

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GRAPE GROWERS; USE OF CHEMICAL SUBSTANCES
Act 6 of 1959

AN ACT to empower the director of agriculture to issue orders under certain conditions prohibiting or restricting the use of 2,4-D (2,4-Dichlorolphenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) and MCP (2 Methyl, 4 Chlorophenoxyacetic acid) causing damage to grape vineyards or crops of grapes within affected areas; and to provide a penalty for violation of such orders.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959;—Am. 1963, Act 70, Eff. Sept. 6, 1963.

The People of the State of Michigan enact:

286.401 Grape growers; chemical substances; definitions.

Sec. 1. As used in this act:

(a) "Grape grower" means a producer of grapes for profit.

(b) "Grape vineyard" means lands upon which grapevines are maintained and harvested for profit.

(c) "Townships" means government survey townships, and need not be in the same county.

(d) "Proximity" means a radial distance of 2 miles from the site of damage.

(e) "Development" means natural and normal growth before harvest.

(f) "Affected area" means the area defined in the petition. The affected area may be altered by description in the order of the director, if the director finds that such alteration should be made to effectuate the purposes of the petition.

(g) "Major source of agricultural income" means that the producers of grapes within the affected area obtain at least 10% of their gross income as a group in any 5-year period from the production of grapes.

(h) "Director" means the director of the state department of agriculture.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959.

286.402 Chemical substances; petition by grape grower for prohibition.

Sec. 2. Whenever the director receives a petition in a form prescribed by him, signed by 10 or more grape growers in the same or contiguous townships in this state, alleging that the use of 2,4-D (2,4-Dichlorolphenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) in proximity to grape vineyards or crops of grapes described in the petition has proved harmful to the development of grapevines or the grape crop in the affected area in the same or any prior year and asking that the use of such chemical substances be prohibited or restricted within the affected area, the director shall ascertain whether at least 10 of the signers of the petition are grape growers and owners of grape vineyards within the affected area. In counting the required number of petitioners, joint tenants or tenants by the entireties shall be counted as 1 signer.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959;—Am. 1963, Act 70, Eff. Sept. 6, 1963.

286.403 Chemical substances; hearing, posting of notice.

Sec. 3. If the director determines that the petition is properly filed, he shall hold a public hearing after giving at least 10 days' notice of the time and place at which the hearing will be held by posting in at least 5 of the most public places within the affected area, and by notice by mail to each of the petitioners and to each manufacturer, supplier and dealer furnishing the chemical substance complained of within the affected area, so far as is known to the director, after diligent inquiry. Proof of notice shall be evidenced by affidavit of the director appended to the minutes of the hearing at which the petition is considered.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959.

286.404 Chemical substances; director's findings; damage; orders, continuing effect.

Sec. 4. If the director finds, from testimony adduced, that:

(a) There has been actual damage to grapevines or grape crops within the affected area; and

(b) Such damage was caused by the use of the chemical substance complained of in the petition, and by that cause alone; and

(c) Such use was upon lands within the affected area or in proximity to the affected area, or upon the damaged crop itself; and

(d) The commercial production of grapes within the affected area constitutes a major source of agricultural income within the affected area; then the director may issue his order prohibiting or restricting the use of 2,4-D (2,4-Dichlorolphenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to the affected area during the period from May 1 to

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October 1. The order shall continue in effect from year to year unless modified or rescinded by the director. Not later than March 15 of each year, the director shall give notice of the order by publication in a newspaper of general circulation in the area affected. The notice shall state the terms of the order in general language and that the order will continue in effect for the ensuing period of May 1 to October 1, unless a petition for modification or recision of the order, signed by 10 or more grape growers or 50 or more persons not grape growers in the affected area, is filed with the director on or before April 1. If a request for modification or recision is received, the director shall hold a hearing after giving notice as provided in section 3. After the hearing, the director shall make such findings as the evidence adduced justifies and may continue, modify or rescind the order. If the director modifies or rescinds the order, he shall give notice of his action as provided in section 4. All restrictions upon the use of 2,4-D (2,4-Dichlorolphenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to the affected area shall be set forth in the order with particularity.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959;—Am. 1963, Act 70, Eff. Sept. 6, 1963.

286.405 Chemical substances; orders, effective date.

Sec. 5. All orders shall be effective upon posting the same prominently in at least 5 of the most public places within the affected area. They shall be published in the administrative code, provided for in Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, but publication within the quarterly supplement to the administrative code shall not be a condition precedent to their effectiveness.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959.

286.406 Chemical substances; penalty for violation.

Sec. 6. Any person who uses 2,4-D (2,4-Dichlorolphenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to an affected area, in violation of an order of the director prohibiting or restricting such use, is guilty of a misdemeanor.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959;—Am. 1963, Act 70, Eff. Sept. 6, 1963.

USE OF ECONOMIC POISONS
Act 233 of 1959

286.411-286.420 Repealed. 1976, Act 171, Imd. Eff. June 25, 1976.

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***** *Act 193 of 2012 THIS ACT IS REPEALED BY ACT 193 OF 2012 EFFECTIVE FEBRUARY 15, 2018* *****

AGRICULTURAL DISASTER LOAN ORIGINATION PROGRAM ACT OF 2012
Act 193 of 2012

AN ACT to establish an agricultural loan origination program; to authorize certain loan guarantees; to prescribe the powers and duties of certain state agencies and officials; to provide for an appropriation; and to repeal acts and parts of acts.

History: 2012, Act 193, Imd. Eff. June 26, 2012.

The People of the State of Michigan enact:

***** *286.421 THIS SECTION IS REPEALED BY ACT 193 OF 2012 EFFECTIVE FEBRUARY 15, 2018* *****

286.421 Short title.

Sec. 1. This act shall be known and may be cited as the "agricultural disaster loan origination program act of 2012".

History: 2012, Act 193, Imd. Eff. June 26, 2012.

***** *286.422 THIS SECTION IS REPEALED BY ACT 193 OF 2012 EFFECTIVE FEBRUARY 15, 2018* *****

286.422 Definitions.

Sec. 2. As used in this act:

(a) "Agricultural processing" means the enhancement or improvement of the overall value of an agricultural commodity or of an animal or plant product into a product of higher value, including, but not limited to, marketing, agricultural processing, transforming, or packaging.

(b) "Facility" means a plant designed for receiving or storing farm produce, a plant designed for value-added agricultural processing, or a retail sales establishment of a business engaged in making retail sales directly to farmers with 75% or more of its gross retail sales volume exempted from sales tax under section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(c) "Farm" means that term as it is defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(d) "Financial institution" means a state or national bank, a state or federally chartered savings and loan association, a state or federally chartered savings bank, a state or federally chartered credit union, or other regulated lending institution that maintains a principal office or branch office in this state under the laws of this state or the United States, including, but not limited to, an entity of the federally chartered farm credit system.

(e) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(f) "Production of agricultural goods" means commercial farming, including, but not limited to, cultivation of the soil; growing and harvesting of an agricultural, horticultural, or floricultural commodity; dairying; raising of livestock, bees, fish, fur-bearing animals, or poultry; or turf or tree farming.

(g) "Program" means the qualified agricultural loan origination program established under this act.

(h) "Qualified agricultural loan" means a loan that is issued under the program and that meets all of the following conditions:

(*i*) The loan is made to 1 of the following:

(A) A person that is engaged in and intending to remain engaged in this state as an owner or operator of a farm in the production of agricultural goods that suffered a loss of 25% or more in major enterprises or production loss of 50% or more in any 1 crop on a farm located within this state.

(B) A person that is engaged and intending to remain engaged in this state in an agricultural business of buying, exchanging, processing, storing, or selling farm produce that suffered a 50% or greater loss in volume of 1 commodity when compared with the average volume of that commodity that the business handled in the prior 3 years.

(C) The person is engaged in and intending to remain engaged in this state in the business of making retail sales directly to farmers with 75% or more of the person's gross retail sales volume exempted from sales tax under section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a, that suffered a 50% or greater

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reduction in gross retail sales volume subject to the exemption under section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a, when compared with the person's average retail sales volume subject to that exemption in the prior 3 years.

(*ii*) The loss described in subparagraph (*i*) is due to an agricultural disaster recognized by the governor, occurring after January 1, 2012.

(*iii*) The person receiving the loan under subparagraph (*i*) certifies in an affidavit that that person's loss satisfies the relevant requirements of subparagraph (*i*).

(i) "Qualified financial institution" means a financial institution that has a physical location in this state or whose principal office is located in this state, or both.

History: 2012, Act 193, Imd. Eff. June 26, 2012.

***** *286.423 THIS SECTION IS REPEALED BY ACT 193 OF 2012 EFFECTIVE FEBRUARY 15, 2018* *****

286.423 Qualified agricultural loan origination program; establishment; amount; limitation.

Sec. 3. (1) The state treasurer may establish a qualified agricultural loan origination program as provided in this act.

(2) The program shall meet all of the following:

(a) A qualified financial institution shall make qualified agricultural loans before March 31, 2013.

(b) A person receiving a qualified agricultural loan shall pay an interest rate authorized under this act and established by the qualified financial institution.

(c) This state shall pay loan origination fees for administrative costs incurred by the qualified financial institution equal to 5% of the original principal amount of the loan. Loan origination fees shall be paid by this state in 5 equal installments by September 30, 2017.

(3) A qualified agricultural loan shall comply with all of the following:

(a) Interest shall be set by the qualified financial institution at a rate of 1% or at the rate of the 5-year United States treasury note plus 1/4%.

(b) The term of the loan shall not be more than 5 years.

(c) The first principal payment required under the loan shall not occur before 24 months after the issuance of the loan.

(4) A qualified agricultural loan described in section 2(h)(*i*)(A) shall be equal to not more than the value of the crop loss as certified by the producer in an affidavit demonstrating an accurate and valid production loss. The qualified agricultural loan shall not exceed the lesser of $400,000.00 or the value of the crop loss minus insurance proceeds received by the owner or operator as a result of the same crop loss. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or $100,000.00, whichever is less.

(5) A qualified agricultural loan described in section 2(h)(*i*)(B) or (C) shall not exceed the lesser of the following:

(a) Eight hundred thousand dollars per facility.

(b) One million dollars per person applying for the loan.

History: 2012, Act 193, Imd. Eff. June 26, 2012.

***** *286.424 THIS SECTION IS REPEALED BY ACT 193 OF 2012 EFFECTIVE FEBRUARY 15, 2018* *****

286.424 Actions by state treasurer, attorney general, and qualified financial institution; program as valid public purpose.

Sec. 4. (1) The state treasurer may take any necessary action to ensure the successful operation of the program, including, but not limited to, entering into agreements with qualified financial institutions related to the operation of the program and the issuance of qualified agricultural loans.

(2) The attorney general shall approve as to legal form all documents relating to the payment of a loan origination fee by this state.

(3) Each qualified financial institution participating in the program shall do both of the following:

(a) Report to the state treasurer the principal amount of loans made under the program by March 31, 2013.

(b) File an affidavit with the state treasurer signed by a senior executive officer of the qualified financial institution stating that the qualified financial institution is in compliance with the program and this act.

(4) Upon request by the state treasurer, a qualified financial institution shall forward a copy of any affidavits executed by a person receiving a loan under this act to the state treasurer. The qualified financial

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institution and the state treasurer shall destroy the affidavit or its copy after the qualified agricultural loan is repaid.

(5) The program is found and declared to be for a valid public purpose.

History: 2012, Act 193, Imd. Eff. June 26, 2012.

***** *286.425 THIS SECTION IS REPEALED BY ACT 193 OF 2012 EFFECTIVE FEBRUARY 15, 2018* *****

286.425 Expenditure of amount sufficient to pay loan origination fees; limitation; work project appropriation; carrying forward unencumbered or unallotted funds.

Sec. 5. An amount sufficient to pay loan origination fees under section 3, not to exceed $15,000,000.00, shall be expended if it is appropriated to the department of treasury. Not more than $3,000,000.00 of this amount shall be used for loans offered under section 2(h)(*i*)(B) or (C). The appropriation authorized in this subsection is a work project appropriation, and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide financial assistance to the agricultural sector of this state's economy and to alleviate financial distress caused by crop damage and related economic impacts through the program.

(b) The work project will be accomplished through the use of payments to qualified financial institutions for qualified agricultural loan origination fees for administrative costs incurred by qualified financial institutions.

(c) The total estimated completion cost of the work project is $15,000,000.00.

(d) The estimated completion date of the work project is September 30, 2017.

History: 2012, Act 193, Imd. Eff. June 26, 2012.

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***** *Act 188 of 1965 THIS ACT IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

HAZARDOUS SUBSTANCES ACT
Act 188 of 1965

AN ACT to regulate the intrastate distribution and sale of hazardous substances intended or suitable for household use; and to prescribe penalties.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1967, Act 152, Eff. Nov. 2, 1967;—Am. 1974, Act 377, Eff. Apr. 1, 1975;—Am. 1982, Act 54, Imd. Eff. Apr. 6, 1982.

The People of the State of Michigan enact:

***** *286.451 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.451 Hazardous substances act; short title.

Sec. 1. This act shall be known and may be cited as the "hazardous substances act".

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1967, Act 152, Eff. Nov. 2, 1967.

***** *286.452 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.452 Definitions.

Sec. 2. As used in this act:

(a) "Agency" means the department of agriculture.

(b) "Administrator" means the director of the department of agriculture or an authorized representative or agent of the director.

(c) "Intrastate commerce" means commerce within this state and subject to the jurisdiction of this state and includes the operation of a business or service establishment.

(d) "Hazardous substance" means any of the following:

(*i*) A substance, mixture of substances, or article that is toxic, corrosive, an irritant, a strong sensitizer, flammable, or generates pressure through decomposition, heat or other means, if that substance, mixture of substances, or article may cause substantial personal injury or substantial illness during or as a proximate result of a customary or reasonably foreseeable handling or use by the public, including reasonably foreseeable ingestion by children.

(*ii*) A substance that the administrator by rule finds, pursuant to section 3, meets the requirements of subparagraph (*i*).

(*iii*) A radioactive substance, if, with respect to that substance as used in a particular class of article or as packaged for public use, the administrator determines by rule that the substance is sufficiently hazardous to require labeling pursuant to this act in order to protect the public health.

(*iv*) A toy or other article intended for use by children that the administrator determines by rule to be an electrical, mechanical, or thermal hazard to children.

Hazardous substance does not apply to economic poisons subject to part 83 (pesticide control) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.8301 to 324.8336 of the Michigan Compiled Laws, or the federal insecticide, fungicide, and rodenticide act, chapter 125, 86 Stat. 973, 7 U.S.C. 136 to 136i and 136j to 136y, or to foods, drugs, and cosmetics that are subject to the federal food, drug, and cosmetic act, chapter 675, 52 Stat. 1040, 21 U.S.C. 301 to 321, 331 to 333, 334 to 343-2, 344 to 346a, 347, 348 to 353, 355 to 360, 360b to 360dd, 360hh to 363, 371 to 376, and 378 to 395, or that would be subject to that act if in interstate commerce. Hazardous substance does not apply to substances intended for use as fuels when stored in containers and used in the heating, cooking, or refrigeration system of a house, and does not include a source material, special nuclear material, or byproduct material as defined in the atomic energy act of 1954, chapter 1073, 68 Stat. 919, and regulations issued pursuant to that act by the atomic energy commission. Hazardous substance applies to an article which is not itself an economic poison within the meaning of the federal insecticide, fungicide, and rodenticide act, but which is a hazardous substance within the meaning of subdivision (d)(*i*) by reason of bearing or containing an economic poison.

(e) "Toxic" means a substance, other than a radioactive substance, that has the capacity to produce personal injury or illness to human beings through ingestion, inhalation, or absorption through a body surface.

(f) "Highly toxic" means a substance that falls within any of the following categories:

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(*i*) Produces death within 14 days in 1/2 or more than 1/2 of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered.

(*ii*) Produces death within 14 days in 1/2 or more than 1/2 of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, if inhaled continuously for a period of 1 hour or less at an atmosphere concentration of 200 parts per million by volume or less of gas or vapor or 2 milligrams per liter by volume or less of mist or dust, if the concentration is likely to be encountered by human beings if the substance is used in a reasonably foreseeable manner.

(*iii*) Produces death within 14 days in 1/2 or more than 1/2 of a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, if administered by continuous contact with the bare skin for 24 hours or less.

If the administrator finds that available data on human experience with a substance indicate results different from those obtained on animals in the above named dosages or concentrations, the human data shall take precedence.

(g) "Corrosive" means a substance which, in contact with living tissue, will cause destruction of tissue by chemical action, but does not refer to action on inanimate surfaces.

(h) "Irritant" means a substance not corrosive within the meaning of subdivision (g) which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(i) "Strong sensitizer" means a substance which will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substances and which is designated as a strong sensitizer by the administrator. Before designating a substance as a strong sensitizer, the administrator, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

(j) "Extremely flammable" means a substance which has a flash point at or below 20 degrees Fahrenheit as determined by the Tagliabue open cup tester. "Flammable" means a substance which has a flash point of above 20 degrees and at or below 80 degrees Fahrenheit, as determined by the Tagliabue open cup tester; except that the flammability of solids and of the contents of self-pressurized containers shall be determined by methods found by the administrator to be generally applicable to those materials or containers, and established by rules promulgated by the administrator, which rules shall also define the terms, flammable and extremely flammable, pursuant to those methods.

(k) "Radioactive substance" means a substance that emits ionizing radiation.

(*l*) "Label" means a display of written, printed, or graphic matter upon the immediate container of a substance. If on an article which is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, label means a display of written, printed, or graphic matter directly upon the article involved or upon a tag or other suitable material affixed to the article. A requirement made under the authority of this act that a word, statement, or other information appear on the label, shall not be considered to be complied with unless that word, statement, or other information also appears on the outside container or wrapper, if there is one, unless it is easily legible through the outside container or wrapper, and on all accompanying literature, if there are directions for the use, written or otherwise.

(m) "Immediate container" does not include package liners.

(n) "Misbranded hazardous substance" means a hazardous substance, including a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in a manner which is susceptible of access by a child to whom the toy or other article is entrusted, intended, or which is packaged in a form suitable for use in the household or by children, which substance, except as provided by section 3, fails to bear a label:

(*i*) Which states conspicuously, the following:

(A) The name and place of business of the manufacturer, packer, distributor, or seller.

(B) The common or usual name, or the chemical name, if there is not a common or usual name, of the hazardous substance or of each component which contributes substantially to its hazard, unless the administrator by rule permits or requires the use of a recognized generic name.

(C) The signal word, "DANGER", on substances which are extremely flammable, corrosive, or highly toxic.

(D) The signal word, "WARNING" or "CAUTION", on other hazardous substances.

(E) An affirmative statement of the principal hazard, or hazards, such as "Flammable", "Vapor Harmful", "Causes Burns", "Absorbed Through Skin", or similar wording descriptive of the hazard.

(F) Precautionary measures describing the action to be followed or avoided, except if modified by rule of the administrator pursuant to section 3.

(G) Instruction, if necessary or appropriate, for first aid treatment.

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(H) The word, “POISON”, for a hazardous substance which is defined as highly toxic by subdivision (f).

(I) Instructions for handling and storage of packages which require special care in handling or storage.

(J) The statement, “Keep out of the reach of children”, or its practical equivalent, or if the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard.

(*ii*) On which a statement is required under subparagraph (*i*) located prominently and in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.

(o) “Banned hazardous substance” means any of the following:

(*i*) A toy or other article intended for use by children, which is a hazardous substance or which bears or contains a hazardous substance accessible to a child to whom the toy or other article is entrusted. The administrator by rule shall:

(A) Exempt articles, such as chemical sets, which by reason of their functional purpose require the inclusion of the hazardous substance involved, and which bear labeling that gives adequate directions and warning for safe use and are intended for use by children of sufficient maturity and may reasonably be expected to read and heed the directions and warnings.

(B) Exempt and provide for the labeling of common fireworks for which a permit is not required pursuant to section 243a(3)(a), (b), (c), (d), and (e) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.243a of the Michigan Compiled Laws, to the extent that the administrator determines that those articles can be adequately labeled to protect the purchasers and users of the articles.

(*ii*) A hazardous substance intended or packaged in a form suitable for use in the household, which the administrator by rule classifies as a banned hazardous substance on the basis of a finding that notwithstanding the cautionary labeling required under this act for that substance, the degree or nature of the hazard involved in the presence or use of the substance in households is so hazardous that the protection of the public health and safety can be adequately promoted only by keeping the substance, if so intended or packaged, out of intrastate commerce.

(p) “Electrical hazard” means a hazard which results if an electrical toy in normal use or if subjected to reasonably foreseeable damage or abuse may, because of its design or manufacture, cause personal injury or illness by electric shock.

(q) “Mechanical hazard” means a hazard that results if a mechanical toy in normal use or if subjected to reasonably foreseeable damage or abuse presents, because of its design or manufacture, an unreasonable risk of personal injury or illness from 1 or more of the following:

(*i*) From fracture, fragmentation, or disassembly of the toy.

(*ii*) From propulsion of the toy or a part or accessory of the toy.

(*iii*) From a point or other protrusion, surface, edge, opening, or closure.

(*iv*) From a moving part.

(*v*) From an insufficiency of controls to reduce or stop motion.

(*vi*) From the self-adhering characteristics of the toy.

(*vii*) Because the toy or a part or accessory of the toy may be aspirated or ingested.

(*viii*) Because of instability.

(*ix*) Because of another aspect of the toy's design or manufacture.

(r) “Thermal hazard” means a hazard that results if a thermal toy in normal use or if subjected to reasonably foreseeable damage or abuse presents, because of the toy's design or manufacture, an unreasonable risk of personal injury or illness because of heat from heated parts, substances, or surfaces.

(s) “Manufacturer” means a person, partnership, sole proprietorship, association, or corporation engaged in the manufacture of thermal, mechanical, or electrical toys.

(t) “Retailer” means a person, partnership, sole proprietorship, association, or corporation who customarily sells thermal, mechanical, or electrical toys to the consumer.

(u) “Wholesaler” means a person, partnership, sole proprietorship, association, or corporation who sells thermal, mechanical, or electrical toys to retailers.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1967, Act 152, Eff. Nov. 2, 1967;—Am. 1974, Act 377, Eff. Apr. 1, 1975;—Am. 1978, Act 257, Eff. July 1, 1978;—Am. 1996, Act 62, Imd. Eff. Feb. 26, 1996.

****** 286.453 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016 ******

286.453 Declaration of hazardous or banned substance; establishment of reasonable variations or additional label requirements; failure of hazardous substance to bear label; exempted substances; determination of toy or other article as hazard to children.

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Sec. 3. (1) When in the judgment of the administrator such action will promote the objectives of this act by avoiding or resolving uncertainty as to the application of this act, the administrator may by rule declare to be a hazardous or banned substance, for the purposes of this act, a substance or mixture of substances which he finds meets the requirements of section 2(d).

(2) If the administrator finds that the requirements of section 2(n) (1) are not adequate for the protection of the public health and safety in view of the special hazard presented by a particular hazardous substance, he may establish by rule such reasonable variations or additional label requirements as he finds necessary for the protection of the public health and safety; and a hazardous substance, intended or suitable for household use, which fails to bear a label in accordance with those rules shall be deemed to be a misbranded, hazardous, or banned substance.

(3) If the administrator finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this act is impracticable or is not necessary for the adequate protection of the public health and safety, the administrator shall promulgate rules exempting those substances from these requirements to the extent he determines to be consistent with the adequate protection of the public health and safety.

(4) A determination by the administrator that a toy or other article intended for use by children presents an electrical, mechanical, or thermal hazard to children shall be made by administrative rule in accordance with section 9.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1967, Act 152, Eff. Nov. 2, 1967;—Am. 1974, Act 377, Eff. Apr. 1, 1975.

***** *286.454 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.454 Prohibited acts.

Sec. 4. The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into intrastate commerce of a misbranded, banned hazardous substance, or toy.

(b) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of, or the doing of any other act with respect to, a hazardous substance, if that act is done while the substance is in intrastate commerce, or while the substance is held for sale, whether or not the first sale, after shipment in intrastate commerce, and results in the hazardous substance being a misbranded or banned hazardous substance.

(c) The receipt in intrastate commerce of a misbranded or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

(d) The giving of a guarantee or undertaking which guarantee or undertaking is false, except by a person who relied upon a guarantee or undertaking to the same effect signed by, and containing the name and address of, the persons residing in the United States from whom he received in good faith the hazardous substance.

(e) The failure to permit entry or inspection as authorized by section 10 or to permit access to and copying of any record as authorized by section 11.

(f) The introduction or delivery for introduction into intrastate commerce, or the receipt in intrastate commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a reused food, drug, or cosmetic container or in a container which, though not a reused container, is identifiable as a food, drug, or cosmetic container by its labeling or by other identification. The reuse of a food, drug, or cosmetic container as a container for a hazardous substance shall be deemed to be an act which results in the hazardous substance being a misbranded or banned hazardous substance. As used in this paragraph, the terms “food”, “drug”, and “cosmetic” shall have the same meanings as in the federal food, drug and cosmetic act, 21 U.S.C. sections 301 to 392.

(g) The use by a person to his own advantage, or revealing other than to the administrator or officers or employees of the agency, or to the courts when relevant in a judicial proceeding under this act, of information acquired under authority of section 10 concerning a method of process which as a trade secret is entitled to protection.

(h) The manufacture of a misbranded hazardous substance or banned hazardous substance within this state.

(i) The introduction or reintroduction into intrastate commerce of a misbranded hazardous substance or banned hazardous substance, either denominated as such by rule or embargoed by the administrator, without first submitting samples, purportedly free of hazardous characteristics, to the administrator for inspection and receiving a determination by the administrator that the hazard is eliminated.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1966, Act 194, Imd. Eff. July 1, 1966;—Am. 1967, Act 152, Eff. Nov. 2, 1967;—Am. 1974, Act 377, Eff. Apr. 1, 1975.

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***** *286.455 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.455 Violation as misdemeanor or felony; penalties; persons not subject to penalties.

Sec. 5. (1) A person who violates section 4 is guilty of a misdemeanor, punishable by a fine of not more than $2,000.00 or imprisonment for not more than 1 year, or both.

(2) A person who wilfully, or with intent to defraud or mislead, violates section 4 is guilty of a felony, punishable by a fine of not more than $20,000.00 or imprisonment for not more than 5 years, or both.

(3) A person shall not be subject to the penalties of subsection (1) for violating section 4(c), if the receipt, delivery, or proffered delivery of the hazardous substance was made in good faith, unless that person refuses to furnish, upon the request of an officer or employee duly designated by the administrator, the name and address of the person from whom he or she purchased or received the hazardous or banned substance and copies of all documents pertaining to the delivery of the hazardous or banned substance to the person. A person shall not be subject to the penalties of subsection (1) for violating section 4(a) if that person establishes a guarantee or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he or she received in good faith the hazardous or banned substance, to the effect that the hazardous or banned substance is not a misbranded hazardous substance.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1967, Act 152, Eff. Nov. 2, 1967;—Am. 1974, Act 377, Eff. Apr. 1, 1975;—Am. 1982, Act 54, Imd. Eff. Apr. 6, 1982.

***** *286.456 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.456 Injunction; mailing copy of application or complaint to administrator.

Sec. 6. In addition to the remedies hereinafter provided, the administrator, attorney general, or prosecuting attorneys may apply to the circuit court for, and the court may, upon hearing and for cause shown, grant a temporary or permanent injunction restraining a person from violating section 4, irrespective of whether or not there exists an adequate remedy at law. The attorney general or prosecuting attorney shall within 30 days after filing an application or complaint in the circuit court mail by certified mail a copy of the application or complaint to the administrator.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1974, Act 377, Eff. Apr. 1, 1975.

***** *286.457 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.457 Tagging or marking misbranded or banned hazardous substance; permission for removal or disposal of detained or embargoed article; petition to condemn article; destruction of article; costs; conditions to return of article to claimant.

Sec. 7. (1) When a duly authorized agent of the administrator finds or has probable cause to believe that a hazardous household substance or toy is so misbranded as to be dangerous to the public health, or banned, within the meaning of this act, he shall affix to that article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, a misbranded or banned hazardous substance and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. A person shall not remove or dispose of a detained or embargoed article by sale or otherwise without permission.

(2) When an article detained or embargoed under subsection (1) has been found by the agent to be a misbranded or banned hazardous substance, the agent or at the agent's request, the attorney general or the prosecuting attorney of the county in which the article detained or embargoed is located, shall petition the judge of the circuit court in whose jurisdiction the article is detained or embargoed to condemn the article. When the agent has found that an article so detained or embargoed is not misbranded, he shall remove the tag or other marking.

(3) If the court finds that a detained or embargoed article is misbranded, the article, after entry of the judgment or order, shall be destroyed at the expense of the claimant thereof, under the supervision of the agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of the article or his agent. When the misbranding can be corrected by proper labeling of the article, the court, after entry of the judgment or order and after the costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article shall be so labeled, has been executed, may direct that the article be delivered to claimant thereof for labeling under the supervision of an agent of the administrator. The expense of the supervision shall be paid by claimant. The article shall be returned to the claimant on the representation to the court by the administrator that the article is no longer in violation of this act, and that the expenses of supervision have been paid.

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History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1974, Act 377, Eff. Apr. 1, 1975.

***** *286.458 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.458 Court proceedings for reported violation; notice; opportunity to present views.

Sec. 8. The attorney general or the prosecuting attorney to whom the administrator reports a violation of this act shall cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before a violation of this act is reported to any prosecuting attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the administrator or his designated agent, either orally or in writing, in person, or by attorney, with regard to the contemplated proceeding. Proceedings shall be held pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1974, Act 377, Eff. Apr. 1, 1975.

***** *286.459 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.459 Rules; adoption of federal regulations; additional rules or amendments; notice of imminent hazard.

Sec. 9. (1) The administrator shall promulgate rules necessary for the administration of this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(2) Certain federal regulations adopted to date pursuant to section 2 of the child protection and toy safety act of 1969, 15 U.S.C. 1261(f)(1)(D) and 15 U.S.C. 1261(q)(1)(A), being 16 C.F.R. 1500.18, 16 C.F.R. 1500.86, 16 C.F.R. part 1505, and 16 C.F.R. part 1508 are adopted as rules under this act. The administrator shall cause any additional rules or amendments to rules promulgated to conform, insofar as practicable, with the regulations established pursuant to the federal hazardous substances act, 15 U.S.C. 1261 to 1275, and to the consumer product safety act, 15 U.S.C. 2051 to 2082.

(3) If the administrator finds that the distribution for household use of a hazardous substance or the distribution of a toy intended for use by children, which is a hazardous substance or which bears or contains a hazardous substance accessible to a child, presents imminent hazard to the public health, the administrator may give notice by order published in a newspaper circulated throughout the state of that finding, and upon publication of the order the substance, if intended or offered for household use, or if so packaged as to be suitable for household use, shall be considered to be a banned hazardous substance pending the completion of the proceedings relating to the issuance of an administrative rule concerning that substance.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1967, Act 152, Eff. Nov. 2, 1967;—Am. 1974, Act 377, Eff. Apr. 1, 1975;—Am. 1978, Act 257, Eff. July 1, 1978;—Am. 1982, Act 54, Imd. Eff. Apr. 6, 1982.

Administrative rules: R 285.547.1 of the Michigan Administrative Code.

***** *286.460 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.460 Factory or warehouse; entry and inspection, samples, receipt.

Sec. 10. (1) For purposes of enforcement of this act, officers or employees duly designated by the administrator, upon presenting appropriate credentials to the owner, operator, or agent in charge, may enter, at reasonable times, any factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into intrastate commerce or are held after such introduction, or enter any vehicle being used to transport or hold such hazardous substances in intrastate commerce; inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished materials, and labeling therein; and obtain samples of such materials or packages thereof, or of such labeling.

(2) If the officer or employee obtains any sample, prior to leaving the premises, he shall pay or offer to pay the owner, operator, or agent in charge for such sample and give a receipt describing the samples obtained.

History: 1965, Act 188, Eff. Mar. 31, 1966.

***** *286.461 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.461 Carriers, access to records; admissibility of evidence in criminal prosecution.

Sec. 11. For the purpose of enforcing the provisions of this act, carriers engaged in intrastate commerce, and persons receiving hazardous or banned substances in intrastate commerce or holding hazardous or banned

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substances so received, upon the request of an officer or employee duly designated by the administrator, shall permit the officer or employee, at reasonable times, to have access to and to copy all records showing the movement in intrastate commerce of any hazardous or banned substance, or the holding thereof during or after such movement, and the quantity, shipper and consignee thereof; and it is unlawful for any carrier or person to fail to permit access to and copying of any record so requested when the request is accompanied by a statement in writing specifying the nature or kind of such hazardous or banned substance to which such request relates. Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained. Carriers shall not be subject to the other provisions of this act by reason of their receipt, carriage, holding or delivery of hazardous or banned substances in the usual course of business as carriers.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1967, Act 152, Eff. Nov. 2, 1967.

***** *286.462 THIS SECTION IS REPEALED BY ACT 210 OF 2015 EFFECTIVE MARCH 14, 2016* *****

286.462 Publication of reports; dissemination of information.

Sec. 12. (1) The administrator shall cause to be published at least twice annually reports summarizing any judgments, or court orders which have been rendered under this act, including the nature of the charge and the disposition thereof.

(2) The administrator may also cause to be disseminated information regarding hazardous or banned substances in situations involving, in the opinion of the administrator, imminent danger to health. Nothing in this section shall be construed to prohibit the administrator from collecting, reporting, and illustrating the results of the investigations of the agency.

History: 1965, Act 188, Eff. Mar. 31, 1966;—Am. 1967, Act 152, Eff. Nov. 2, 1967;—Am. 1974, Act 377, Eff. Apr. 1, 1975.

286.463 Repealed. 1982, Act 54, Imd. Eff. Apr. 6, 1982.

Compiler's note: The repealed section pertained to licensing manufacturer or wholesaler of thermal, mechanical, or electrical toys.

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MICHIGAN RIGHT TO FARM ACT
Act 93 of 1981

AN ACT to define certain farm uses, operations, practices, and products; to provide certain disclosures; to provide for circumstances under which a farm shall not be found to be a public or private nuisance; to provide for certain powers and duties for certain state agencies and departments; and to provide for certain remedies for certain persons.

History: 1981, Act 93, Imd. Eff. July 11, 1981;—Am. 1995, Act 94, Eff. Sept. 30, 1995.

The People of the State of Michigan enact:

286.471 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan right to farm act".

History: 1981, Act 93, Imd. Eff. July 11, 1981.

286.472 Definitions.

Sec. 2. As used in this act:

(a) "Farm" means the land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

(b) "Farm operation" means the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:

(*i*) Marketing produce at roadside stands or farm markets.

(*ii*) The generation of noise, odors, dust, fumes, and other associated conditions.

(*iii*) The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(*iv*) Field preparation and ground and aerial seeding and spraying.

(*v*) The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.

(*vi*) Use of alternative pest management techniques.

(*vii*) The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.

(*viii*) The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.

(*ix*) The conversion from a farm operation activity to other farm operation activities.

(*x*) The employment and use of labor.

(c) "Farm product" means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture.

(d) "Generally accepted agricultural and management practices" means those practices as defined by the Michigan commission of agriculture. The commission shall give due consideration to available Michigan department of agriculture information and written recommendations from the Michigan state university college of agriculture and natural resources extension and the agricultural experiment station in cooperation with the United States department of agriculture natural resources conservation service and the consolidated farm service agency, the Michigan department of natural resources, and other professional and industry organizations.

(e) "Person" means an individual, corporation, partnership, association, or other legal entity.

History: 1981, Act 93, Imd. Eff. July 11, 1981;—Am. 1987, Act 240, Imd. Eff. Dec. 28, 1987;—Am. 1995, Act 94, Eff. Sept. 30, 1995.

286.473 Farm or farm operation as public or private nuisance; review and revision of

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practices; finding; conditions.

Sec. 3. (1) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural and management practices according to policy determined by the Michigan commission of agriculture. Generally accepted agricultural and management practices shall be reviewed annually by the Michigan commission of agriculture and revised as considered necessary.

(2) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation existed before a change in the land use or occupancy of land within 1 mile of the boundaries of the farm land, and if before that change in land use or occupancy of land, the farm or farm operation would not have been a nuisance.

(3) A farm or farm operation that is in conformance with subsection (1) shall not be found to be a public or private nuisance as a result of any of the following:

(a) A change in ownership or size.

(b) Temporary cessation or interruption of farming.

(c) Enrollment in governmental programs.

(d) Adoption of new technology.

(e) A change in type of farm product being produced.

History: 1981, Act 93, Imd. Eff. July 11, 1981;—Am. 1987, Act 240, Imd. Eff. Dec. 28, 1987;—Am. 1995, Act 94, Eff. Sept. 30, 1995.

286.473a Repealed. 1999, Act 261, Eff. Mar. 10, 2000.

Compiler's note: The repealed section pertained to complaints generally.

286.473b Recovery of costs and expenses.

Sec. 3b. In any nuisance action brought in which a farm or farm operation is alleged to be a nuisance, if the defendant farm or farm operation prevails, the farm or farm operation may recover from the plaintiff the actual amount of costs and expenses determined by the court to have been reasonably incurred by the farm or farm operation in connection with the defense of the action, together with reasonable and actual attorney fees.

History: Add. 1995, Act 94, Eff. Sept. 30, 1995.

286.473c Property subject to disclosure; contents of statement.

Sec. 3c. (1) Certain real property is subject to those disclosures described in section 7 of the seller disclosure act, Act No. 92 of the Public Acts of 1993, being section 565.957 of the Michigan Compiled Laws. A seller of real property located within 1 mile of the property boundary of a farm or farm operation may voluntarily make available to the buyer the following statement: “This notice is to inform prospective residents that the real property they are about to acquire lies within 1 mile of the property boundary of a farm or farm operation. Generally accepted agricultural and management practices may be utilized by the farm or farm operation and may generate usual and ordinary noise, dust, odors, and other associated conditions, and these practices are protected by the Michigan right to farm act.”.

(2) Certain subdivided land is subject to those disclosures described in section 8 of the land sales act, Act No. 286 of the Public Acts of 1972, being section 565.808 of the Michigan Compiled Laws.

History: Add. 1995, Act 94, Eff. Sept. 30, 1995.

286.474 Investigation of complaints involving farm or farm operation; memorandum of understanding; generally accepted agricultural and management practices; unverified complaints; applicability of other statutes; preemption of local ordinance, regulation, or resolution; ordinance proposed by local unit of government; generally accepted agricultural and management practices for site selection and odor controls at new or expanding animal livestock facilities; advisory committee; manure management plan; duties of department; definitions.

Sec. 4. (1) Subject to subsection (2), the director shall investigate all complaints involving a farm or farm operation, including, but not limited to, complaints involving the use of manure and other nutrients, agricultural waste products, dust, noise, odor, fumes, air pollution, surface water or groundwater pollution, food and agricultural processing by-products, care of farm animals and pest infestations. Within 7 business days of receipt of the complaint, the director shall conduct an on-site inspection of the farm or farm operation. The director shall notify, in writing, the city, village, or township and the county in which the farm or farm operation is located of the complaint.

(2) The commission and the director shall enter into a memorandum of understanding with the director of

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the department of environmental quality. The investigation and resolution of environmental complaints concerning farms or farm operations shall be conducted in accordance with the memorandum of understanding. However, the director shall notify the department of environmental quality of any potential violation of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, or a rule promulgated under that act. Activities at a farm or farm operation are subject to applicable provisions of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and the rules promulgated under that act. The commission and the director shall develop procedures for the investigation and resolution for other farm-related complaints.

(3) If the director finds upon investigation under subsection (1) that the person responsible for a farm or farm operation is using generally accepted agricultural and management practices, the director shall notify, in writing, that person, the complainant, and the city, village, or township and the county in which the farm or farm operation is located of this finding. If the director identifies that the source or potential sources of the problem were caused by the use of other than generally accepted agricultural and management practices, the director shall advise the person responsible for the farm or farm operation that necessary changes should be made to resolve or abate the problem and to conform with generally accepted agricultural and management practices and that if those changes cannot be implemented within 30 days, the person responsible for the farm or farm operation shall submit to the director an implementation plan including a schedule for completion of the necessary changes. When the director conducts a follow-up on-site inspection to verify whether those changes have been implemented, the director shall notify, in writing, the city, village, or township and the county in which the farm or farm operation is located of the time and date of the follow-up on-site inspection and shall allow a representative of the city, village, or township and the county to be present during the follow-up on-site inspection. If the changes have been implemented, the director shall notify, in writing, the person responsible for the farm or farm operation, the complainant, and the city, village, or township and the county in which the farm or farm operation is located of this determination. If the changes have not been implemented, the director shall notify, in writing, the complainant and the city, village, or township and the county in which the farm or farm operation is located that the changes have not been implemented and whether a plan for implementation has been submitted. Upon request, the director shall provide a copy of the implementation plan to the city, village, or township and the county in which the farm or farm operation is located.

(4) A complainant who brings more than 3 unverified complaints against the same farm or farm operation within 3 years may be ordered, by the director, to pay to the department the full costs of investigation of any fourth or subsequent unverified complaint against the same farm or farm operation. As used in this subsection, "unverified complaint" means a complaint in response to which the director determines that the farm or farm operation is using generally accepted agricultural and management practices.

(5) Except as provided in subsection (6), this act does not affect the application of state statutes and federal statutes.

(6) Beginning June 1, 2000, except as otherwise provided in this section, it is the express legislative intent that this act preempt any local ordinance, regulation, or resolution that purports to extend or revise in any manner the provisions of this act or generally accepted agricultural and management practices developed under this act. Except as otherwise provided in this section, a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that conflicts in any manner with this act or generally accepted agricultural and management practices developed under this act.

(7) A local unit of government may submit to the director a proposed ordinance prescribing standards different from those contained in generally accepted agricultural and management practices if adverse effects on the environment or public health will exist within the local unit of government. A proposed ordinance under this subsection shall not conflict with existing state laws or federal laws. At least 45 days prior to enactment of the proposed ordinance, the local unit of government shall submit a copy of the proposed ordinance to the director. Upon receipt of the proposed ordinance, the director shall hold a public meeting in that local unit of government to review the proposed ordinance. In conducting its review, the director shall consult with the departments of environmental quality and community health and shall consider any recommendations of the county health department of the county where the adverse effects on the environment or public health will allegedly exist. Within 30 days after the public meeting, the director shall make a recommendation to the commission on whether the ordinance should be approved. An ordinance enacted under this subsection shall not be enforced by a local unit of government until approved by the commission of agriculture.

(8) By May 1, 2000, the commission shall issue proposed generally accepted agricultural and management practices for site selection and odor controls at new and expanding animal livestock facilities. The commission shall adopt such generally accepted agricultural and management practices by June 1, 2000. In

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developing these generally accepted agricultural and management practices, the commission shall do both of the following:

(a) Establish an advisory committee to provide recommendations to the commission. The advisory committee shall include the entities listed in section 2(d), 2 individuals representing townships, 1 individual representing counties, and 2 individuals representing agricultural industry organizations.

(b) For the generally accepted agricultural and management practices for site selection, consider groundwater protection, soil permeability, and other factors determined necessary or appropriate by the commission.

(9) If generally accepted agricultural and management practices require the person responsible for the operation of a farm or farm operation to prepare a manure management plan, the person responsible for the operation of the farm or farm operation shall provide a copy of that manure management plan to the city, village, or township or the county in which the farm or farm operation is located, upon request. A manure management plan provided under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) The department shall do all of the following:

(a) Annually submit to the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to agriculture and local government a report on the implementation of this act.

(b) Make available on the department's website current generally accepted agricultural and management practices.

(c) Establish a toll-free telephone number for receipt of information on noncompliance with generally accepted agricultural and management practices.

(11) As used in this section:

(a) “Adverse effects on the environment or public health” means any unreasonable risk to human beings or the environment, based on scientific evidence and taking into account the economic, social, and environmental costs and benefits and specific populations whose health may be adversely affected.

(b) “Commission” means the commission of agriculture.

(c) “Department” means the department of agriculture.

(d) “Director” means the director of the department or his or her designee.

History: 1981, Act 93, Imd. Eff. July 11, 1981;—Am. 1995, Act 94, Eff. Sept. 30, 1995;—Am. 1999, Act 261, Eff. Mar. 10, 2000.

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PEST CONTROL COMPACT
Act 187 of 1965

AN ACT providing for the joinder of this state in the pest control compact, and for related purposes.

History: 1965, Act 187, Imd. Eff. July 15, 1965.

The People of the State of Michigan enact:

286.501 Pest control compact; findings, definitions, insurance fund, assistance, committees, relations, finance, entrance and withdrawal, construction.

Sec. 1. The pest control compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

PEST CONTROL COMPACT

Article I

Findings

The party states find that:

(a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately 7 billion dollars from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an insurance fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

Article II

Definitions

As used in this compact, unless the context clearly requires a different construction:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate 1 or more pests within 1 or more other states.

(c) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (a) of this article.

(d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.

(e) "Insurance fund" means the pest control insurance fund established pursuant to this compact.

(f) "Governing board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) "Executive committee" means the committee established pursuant to article V (e) of this compact.

Article III

The Insurance Fund

There is hereby established the pest control insurance fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The insurance fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the insurance fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

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Article IV
The Insurance Fund, Internal Operations and Management

(a) The insurance fund shall be administered by a governing board and executive committee as hereinafter provided. The actions of the governing board and executive committee pursuant to this compact shall be deemed the actions of the insurance fund.

(b) The members of the governing board shall be entitled to 1 vote each on such board. No action of the governing board shall be binding unless taken at a meeting at which a majority of the total number of votes on the governing board are cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

(c) The insurance fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

(d) The governing board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not succeed himself. The governing board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the governing board. The governing board shall make provision for the bonding of such of the officers and employees of the insurance fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the insurance fund.

(f) The insurance fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(g) The insurance fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the governing board pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this article shall be reported in the annual report of the insurance fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for the conduct of the business of the insurance fund and shall have the power to amend and rescind these bylaws. The insurance fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The insurance fund annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. The insurance fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the insurance fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

Article V
Compact and Insurance Fund Administration

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the compact in his state; and

2. Represent his state on the governing board of the insurance fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the governing board of the insurance fund by not to exceed 3 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the governing board or on the executive committee thereof.

(c) The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the insurance fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of moneys from the insurance fund. Additional meetings of the governing board shall be held on call of the chairman, the executive committee, or a majority of the membership of the governing board.

(d) At such times as it may be meeting, the governing board shall pass upon applications for assistance from the insurance fund and authorize disbursements therefrom. When the governing board is not in session,

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the executive committee thereof shall act as agent of the governing board, with full authority to act for it in passing upon such applications.

(e) The executive committee shall be composed of the chairman of the governing board and 4 additional members of the governing board chosen by it so that there shall be 1 member representing each of 4 geographic groupings of party states. The governing board shall make such geographic groupings. If there is representation of the United States on the governing board, 1 such representative may meet with the executive committee. The chairman of the governing board shall be chairman of the executive committee. No action of the executive committee shall be binding unless taken at a meeting at which at least 4 members of such committee are present and vote in favor thereof. Necessary expenses of each of the 5 members of the executive committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the governing board, shall be charges against the insurance fund.

Article VI
Assistance and Reimbursement

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.

2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the insurance fund for eradication or control measures to be taken by 1 or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys made available from the insurance fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the insurance fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances which occasion the request for the invoking of the compact.

2. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state.

3.A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefor, in connection with the eradication, control, or prevention of introduction of the pest concerned.

4.Proof that the expenditures being made or budgeted as detailed in item 3 do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in item 3 constitutes a normal level of pest control activity.

5.A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the insurance fund in 1 year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.

6. Such other information as the governing board may require consistent with the provisions of this compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the insurance fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by paragraph (c) of this article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board or the executive committee may meet at any time or place for the purpose of receiving and

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considering an application. Any and all determinations of the governing board or executive committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the executive committee shall upon notice in writing given within 20 days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the governing board. Determinations of the executive committee shall be reviewable only by the governing board at one of its regular meetings, or at a special meeting held in such manner as the governing board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the insurance fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the insurance fund. The governing board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of moneys from the insurance fund pursuant to an application of a requesting state, the insurance fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(i) The insurance fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the insurance fund, cooperating federal agencies, states and any other entities concerned.

Article VII
Advisory and Technical Committees

The governing board may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the governing board or executive committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the insurance fund being considered by such board or committee and the board or committee may receive and consider the same: provided that any participant in a meeting of the governing board or executive committee held pursuant to article VI (d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the governing board or executive committee makes its disposition of the application.

Article VIII
Relations with Nonparty Jurisdiction

(a) A party state may make application for assistance from the insurance fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this article.

(b) At or in connection with any meeting of the governing board or executive committee held pursuant to article VI (d) of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the governing board or executive committee may provide. A nonparty state shall not be entitled to review of any determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The governing board or executive committee may set any conditions which it deems appropriate with respect to the expenditure of moneys from the insurance fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.

Article IX
Finance

(a) The insurance fund shall submit to the executive head or designated officer or officers of each party state a budget for the insurance fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of

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agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the insurance fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the insurance fund shall be maintained in 2 accounts to be designated respectively as the "operating account" and the "claims account." The operating account shall consist only of those assets necessary for the administration of the insurance fund during the next ensuing 2-year period. The claims account shall contain all moneys not included in the operating account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the insurance fund for a period of 3 years. At any time when the claims account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the governing board shall reduce its budget requests on a pro rata basis in such manner as to keep the claims account within such maximum limit. Any moneys in the claims account by virtue of conditional donations, grants or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such moneys are available to meet demands arising out of claims.

(d) The insurance fund shall not pledge the credit of any party state. The insurance fund may meet any of its obligations in whole or in part with moneys available to it under article IV (g) of this compact, provided that the governing board takes specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the insurance fund makes use of moneys available to it under article IV (g) hereof, the insurance fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

(e) The insurance fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the insurance fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the insurance fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the insurance fund.

(f) The accounts of the insurance fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the insurance fund.

Article X

Entry Into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any 5 or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 2 years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article XI

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History: 1965, Act 187, Imd. Eff. July 15, 1965.

286.502 Cooperation by state departments, agencies and officers with insurance fund.

Sec. 2. Consistent with law and within available appropriations, the departments, agencies and officers of this state may cooperate with the insurance fund established by the pest control compact.

History: 1965, Act 187, Imd. Eff. July 15, 1965.

286.503 Bylaws and amendments; filing.

Sec. 3. Pursuant to article IV (h) of the compact, copies of bylaws and amendments thereto shall be filed with the department of agriculture.

History: 1965, Act 187, Imd. Eff. July 15, 1965.

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286.504 Compact administrator; duties.

Sec. 4. The compact administrator for this state shall be the director of agriculture. The duties of the compact administrator shall be deemed a regular part of the duties of his office.

History: 1965, Act 187, Imd. Eff. July 15, 1965.

286.505 Insurance fund; application for assistance.

Sec. 5. Within the meaning of article VI (b) or VIII (a), a request or application for assistance from the insurance fund may be made by the governor whenever in his judgment the conditions qualifying this state for such assistance exist and it would be in the best interest of this state to make such request.

History: 1965, Act 187, Imd. Eff. July 15, 1965.

286.506 Credit to account of department liable for expenditure.

Sec. 6. The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the compact shall have credited to his account in the state treasury the amount or amounts of any payments made to this state to defray the cost of such program, or any part thereof, or as reimbursement thereof.

History: 1965, Act 187, Imd. Eff. July 15, 1965.

286.507 Executive head; definition.

Sec. 7. As used in the compact, with reference to this state, the term “executive head” means the governor.

History: 1965, Act 187, Imd. Eff. July 15, 1965.

PESTICIDE CONTROL ACT
Act 171 of 1976

286.551-286.581 Repealed. 1994, Act 451, Eff. Mar. 30, 1995.

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TRANSPORTATION OF MIGRANT AGRICULTURAL WORKERS
Act 288 of 1965

AN ACT to require the department of commerce, public service commission division, to adopt rules and regulations for the minimum safety requirements for motor vehicles, and the operators thereof, used to transport migrant agricultural workers; and to provide a penalty for the violation of such rules.

History: 1965, Act 288, Imd. Eff. July 22, 1965;—Am. 1966, Act 190, Eff. Mar. 10, 1967.

The People of the State of Michigan enact:

286.601 Transportation of migrant agricultural workers; minimum safety standards, rules and regulations.

Sec. 1. The department of commerce, public service commission division, shall adopt rules and regulations on or before July 1, 1966 in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, to protect the health and safety of migrant workers proceeding to or returning from employment in agriculture in any motor vehicle carrier.

The rules and regulations shall specify the minimum safety and other requirements for motor vehicles, parts, accessories, equipment and safety devices thereon and for health, language, driving skill, age and other requirements for operators of motor vehicles which transport migrant workers and which are covered by the regulations. The rules may also specify other minimum safety requirements for transportation of migrant workers to or from agricultural employment.

The department may, by rule, require the additional licensing of persons authorized to operate motor vehicles used to transport migrant agricultural workers which otherwise are subject to the regulations promulgated pursuant to this act. There shall be no fee for such license.

History: 1965, Act 288, Imd. Eff. July 22, 1965;—Am. 1966, Act 190, Eff. Mar. 10, 1967.

Compiler's note: For transfer of Public Service Commission highway enforcement functions relating to motor carriers to Department of State Police, see E.R.O. No. 1982-1, compiled at MCL 28.21 of the Michigan Compiled Laws.

Transfer of powers: See MCL 28.21.

286.602 Encouragement of compliance with safety regulations.

Sec. 2. The department shall encourage compliance with the regulations promulgated pursuant to this act and shall meet periodically with municipal and private associations and other groups to promote the health and safety of migrant workers proceeding to or returning from employment in agriculture.

History: 1965, Act 288, Imd. Eff. July 22, 1965.

REMODELING HOUSING FOR MIGRATORY WORKERS
Act 197 of 1970

286.611-286.616 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.

AGRICULTURAL LABOR CAMPS
Act 289 of 1965

286.621-286.634 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.

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OVERNIGHT REST CAMPS FOR MIGRANT AGRICULTURAL WORKERS
Act 160 of 1966

AN ACT to establish permanent and mobile overnight rest camps and information centers for migrant workers; and to define the duties and responsibilities of certain state departments.

History: 1966, Act 160, Imd. Eff. July 1, 1966.

The People of the State of Michigan enact:

286.641 Overnight rest camps for migrant agricultural workers; selection of sites.

Sec. 1. The department of labor shall plan, construct or lease, and provide custodial administration for at least 2 supervised overnight rest camps for migrant agricultural workers; 1 in the southwest part of the state and 1 in the southeast part of the state near U.S.-23. The final selection of the sites shall be determined with the approval of the department of labor—employment security commission.

History: 1966, Act 160, Imd. Eff. July 1, 1966.

286.642 Minimum size of camp, and minimum facilities; time of operation.

Sec. 2. Each camp shall have not less than 6 18 feet by 24 feet units with roof, for use as sleeping quarters for migrant workers; 5 roofed cooking facilities; drinking water; separate toilet facilities and washrooms for men and women; living space for the camp supervisor; sufficient space for at least 3 desks and waiting space suitable for a farm labor services office equipped with heat, lights and telephone and radio communication systems. Each camp shall be in operation for the period from May 1 to October 31 of each year.

History: 1966, Act 160, Imd. Eff. July 1, 1966.

286.643 Rules and regulations; promulgation.

Sec. 3. The department of labor may make rules and regulations necessary for administration of this act and setting fees for space and services provided by it. The rules and regulations shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

History: 1966, Act 160, Imd. Eff. July 1, 1966.

286.644 Authorization or expenditure of federal and other funds, limitation.

Sec. 4. The authorization provided in section 1 does not include authorization for any expenditures in excess of funds obtainable from the federal government for the purpose provided in section 1 and funds obtainable from non-governmental sources for this purpose and such other funds as may hereafter be appropriated by the state legislature and expressly designated for such purpose, and provided that the acceptance of such funds does not obligate the state to continue those programs after the federal and other funds are no longer available, and that such federal and other funds shall be allotted for expenditure only after approval by the state budget director.

History: 1966, Act 160, Imd. Eff. July 1, 1966.

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LICENSING AND REGULATION OF EMIGRANT AGENTS
Act 234 of 1966

AN ACT to provide for the licensing and regulation of emigrant agents; to prescribe the functions of the director of labor; and to provide penalties for violation of this act.

History: 1966, Act 234, Imd. Eff. July 11, 1966.

The People of the State of Michigan enact:

286.651 Emigrant agents; definition.

Sec. 1. As used in this act:

(a) "Person" means an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy or receiver.

(b) "Emigrant agent" means a person engaged in recruiting, hiring, soliciting or enticing laborers by any means whatsoever in this state to be employed beyond the limits of this state in farm labor.

(c) "Employer" means a person employing or seeking to employ an employee for farm labor.

(d) "Farm labor" means cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, any practices performed on the farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market or any forestry or lumbering operations, and first processing of any agricultural or horticultural commodity during seasonal operations.

(e) "Director" means the director of labor or any person authorized to act in his behalf.

History: 1966, Act 234, Imd. Eff. July 11, 1966.

286.652 Exemption from act of certain employment agencies.

Sec. 2. This act does not apply to an employment agency established and operated by this state, the United States or a municipality of this state or a person who operates a labor bureau or employment office in conjunction with his own business for the sole and exclusive purpose of employing help for his own use within this state, or to agricultural producers acting jointly or severally in securing farm laborers for their own use in this state.

History: 1966, Act 234, Imd. Eff. July 11, 1966.

286.653 License; necessity; application; form; fee; bond; cancellation, hearing, grounds.

Sec. 3. No person other than those exempt shall engage in the business of emigrant agent without first having obtained a license therefor from the director. Application for a license may be made in person or by mail on an approved form and shall be accompanied by the annual fee of $75.00 and a valid noncancelable surety bond in the amount of $2,000.00 in favor of the director and conditioned for the faithful observance of all laws and regulations covering the licensee's actions as an emigrant agent. The license shall cover the calendar year for which it is issued. The license is subject to cancellation by the director, after a hearing, when he finds that the agent used fraud or deception in obtaining the license or in soliciting farm laborers, or is convicted of a felony or an offense involving moral turpitude or has violated any provision of this act.

History: 1966, Act 234, Imd. Eff. July 11, 1966.

286.654 Weekly report; filing; failure to file; contents.

Sec. 4. A licensed emigrant agent shall make weekly reports to the director covering each week in which he conducts any activity in this state covered by the license. The report shall be mailed to the director not later than Monday following the week covered by the report. Failure to file such report promptly is sufficient cause for suspension or revocation of the license. The report shall include:

(a) The name, age, sex and address of each person solicited to be employed beyond the limits of this state.

(b) The name and address of the employer of each such person.

(c) The kind of work each such person is to be employed in.

(d) The place where each such person is to be employed.

(e) The term of employment of each such person.

(f) The wages to be paid and perquisites offered to each such person for his work.

(g) Whether or not transportation is to be furnished, arranged for or paid any such agricultural worker either upon leaving or returning to this state.

History: 1966, Act 234, Imd. Eff. July 11, 1966.

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286.655 Agent to carry license; inspection.

Sec. 5. An emigrant agent shall carry the original license or a certified copy thereof on his person at all times he is soliciting, enticing or otherwise recruiting agricultural labor for employment beyond the limits of this state and shall produce the license or copy upon request of a police officer or the director.

History: 1966, Act 234, Imd. Eff. July 11, 1966.

286.656 Violation of act; penalty.

Sec. 6. Any person who acts as an emigrant agent without having secured a license is guilty of a misdemeanor.

History: 1966, Act 234, Imd. Eff. July 11, 1966.

286.657 Effective date.

Sec. 7. This act shall become effective July 1, 1966.

History: 1966, Act 234, Imd. Eff. July 11, 1966.

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MICHIGAN SEED LAW
Act 329 of 1965

AN ACT to regulate the labeling, coloration, advertising, sale, offering, exposing, or transporting for sale of agricultural, vegetable, lawn, flower, and forest tree seeds; to authorize the director of agriculture to adopt rules for the enforcement of this act; to provide for the inspection and testing of seed; to prescribe license fees; to preempt ordinances prohibiting or regulating certain activities with respect to seeds; and to prescribe penalties for violation of this act.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 2006, Act 132, Imd. Eff. May 5, 2006.

The People of the State of Michigan enact:

286.701 Michigan seed law; short title.

Sec. 1. This act shall be known and may be cited as the “Michigan seed law”.

History: 1965, Act 329, Eff. Mar. 31, 1966.

286.702 Definitions.

Sec. 2. As used in this act:

(1) "Person" means any individual, partnership, company, corporation, society, cooperative, union, or association.

(2) "Sale or sell" means the act of transferring property for any consideration and includes the acts of offering, advertising, exposing, holding, or transporting for sale.

(3) "Label" includes all labels, and other written, printed, or graphic representation in any form, accompanying or pertaining to any seed in bulk or in containers and includes representation on invoices, bills, and letterheads.

(4) "Agricultural seed" means the seed of grass, forage, cereal, fiber, oil plants, and any other seed commonly recognized within this state as agricultural or field seed, lawn seed, or mixtures of those seeds.

(5) "Director" means director of the department of agriculture and rural development or his or her authorized representative.

(6) "Screenings" means chaff, florets, immature seed, weed seed, or inert and other foreign matter removed in any way in cleaning or conditioning of seed, or obtained from weedy fields or any source, and contains less than 50% agricultural seed.

(7) "Vegetable seed" means the seed of those crops that are grown in gardens or on truck farms and that generally are known and sold under the name of vegetable or herb seed in this state.

(8) "Flower seed" means the seed of those plants usually grown for their blooms, ornamental foliage, or other ornamental parts and commonly are known and sold under the name of flower seed in this state.

(9) "Forest tree seed" means the seeds of those forest trees that are usually grown in nurseries and forests in this state, and that are listed in the rules promulgated under this act.

(10) "Pure seed" means seed exclusive of inert matter and all other seeds not of the seed being considered, as determined by methods defined by rule promulgated under this act.

(11) "Inert matter" means broken seed 1/2 or less the original size, seeds of legumes or crucifers with seed coats removed, undeveloped or badly injured weed seed, the empty glumes or attached sterile glumes of grasses, stems, leaves, stones, chaff, soil, insects, fungal bodies, material added in coating or pelleting, and all other matter other than pure seed, weed, or crop seed, as determined by methods defined by rule promulgated under this act.

(12) "Weed seed" means the seeds of all plants generally recognized as weeds within the state, as determined by methods defined by rule promulgated under this act, and includes prohibited and restricted noxious weed seeds.

(13) "Crop seed" means the seed of plants grown as crops, other than the kind or variety included in the pure seed, as determined by methods defined by rule promulgated under this act.

(14) "Germination percent" means the percent of seeds capable of producing normal seedlings under favorable growing conditions. Broken, weak, diseased, malformed, or abnormal seedlings, as determined by methods defined by rule promulgated under this act, shall not be considered as having germinated.

(15) "Hard seed percent" means the seed which, due to hardness or impermeability, does not absorb moisture and start growth under favorable conditions during a prescribed germination period but remains hard.

(16) "Prohibited noxious weed seed" means the seed of plants that are highly destructive and difficult to

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control in this state by ordinary good cultural practices, and that are listed in the rules promulgated under this act.

(17) "Restricted noxious weed seed" means the seeds of the plants that are objectionable in the fields, lawns, and gardens of this state but can be controlled by ordinary good cultural practices, and that are listed in the rules promulgated under this act.

(18) "Lot" means a definite quantity of seed identified by a number or other mark, every portion of which is uniform within recognized tolerances for the factors that appear in the labeling.

(19) "Kind" means 1 or more related species or subspecies that singly or collectively is known by 1 common name, including, but not limited to, oats, wheat, soybeans, and corn.

(20) "Variety" means a subdivision of a kind that is distinct, uniform, and stable; distinct in the sense that the variety can be differentiated by 1 or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; uniform in the sense that variations in essential and distinctive characteristics are describable, and stable in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties; for example, heritage oats, augusta wheat, corsoy soybeans.

(21) "Hybrid" means, as applied to kinds or varieties of seed, the first generation seed of a cross, produced by controlling the pollination and by combining 2 or more inbred lines, or 1 inbred line or a single cross with an open pollinated variety, or 2 selected clones, seed lines, varieties, or species, except open pollinated varieties of corn such as zea mays. A hybrid designation shall be treated as a variety name.

(22) "Records" means all label information and the source of this information required by this act for the seed being considered, and all information relating to the shipment or shipments involved with seed, such as invoices, vouchers, freight bills, and other records.

(23) "Advertising" means all representations other than those on the label, disseminated in any manner or by any means, and relating to seed within the scope of this act.

(24) "Treated" means that the seed has received an effective application of substance or method designed to reduce, control, or repel certain disease organisms, fungi, insects, or other pests attacking the seed or seedlings or has received some other treatment to improve its planting value.

(25) "Tolerance" means the allowable deviation from any percentage claim used on a label and is based on the law of normal variation from a mean. Tolerance tables used in the enforcement of this act are those prescribed in the rules promulgated under this act.

(26) "Official sample" means the sample taken from a lot of seed by a representative of the director.

(27) "Representative sample" means a sample taken from a seed lot that is of sufficient size to supply an adequate amount of seed for laboratory testing and that is secured and submitted according to the guidelines approved by the director.

(28) "Vendor" means a person engaged in the selling of seed.

(29) "Grower's declaration" means a statement signed by the grower or shipper giving, for any lot of seed, the lot number, the kind, variety, weight, and origin.

(30) "Hermetically sealed seed" means seed packed in a moisture proof container when the container and the seed in the container meet the requirements specified in the rules promulgated under this act.

(31) "Type" means a group of varieties so nearly similar that individual varieties cannot be clearly differentiated except under special conditions.

(32) "Blend" means seed consisting of more than 1 variety of a kind, each in excess of 5% of the whole.

(33) "Mixture" means seed consisting of more than 1 kind, each in excess of 5% of the whole.

(34) "Dormant seed" means viable seed, excluding hard seed that fail to germinate when provided with the specified germination conditions for the kind of seed in question.

(35) "Controlling the pollination" means a method of hybridization that will produce pure seed that is at least 75% hybrid seed. The second generation or subsequent generations from these crosses are not hybrids.

(36) "Seizure" means a legal process carried out by a court order against a definite amount of seed.

(37) "Stop sale" means an administrative order restraining the sale, disposition, and movement of a definite amount of seed.

(38) "Conditioning" means drying, cleaning, scarifying, and other operations that change the purity or germination of the seed and require the seed lot to be retested to determine the label information. Conditioning does not include packaging, labeling, combining seed lots to form blends or mixtures, or other operations that would not make necessary the retesting of the seed lot to determine the label information.

(39) "Brand" means a word, name, symbol, number, or design used to identify seed of 1 person to distinguish it from the seed of another person.

(40) "Cool season lawn and turf grass" means grasses including Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass,

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annual bentgrass, and mixtures of any of these.

(41) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.326.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996;—Am. 2016, Act 166, Eff. Sept. 7, 2016.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.703 Agricultural, vegetable, or flower seed container; label or tag; information.

Sec. 3. Each container of agricultural, vegetable, or flower seed which is offered for sale for sowing purposes shall bear, or have attached to the container in a conspicuous place, a plainly printed or imprinted label or tag in the English language giving the information provided in sections 4 to 7. If the seed is distributed in bulk, the information required in these sections shall accompany delivery and shall be supplied to the purchaser at the time of delivery.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

286.704 Agricultural seed, mixtures of agricultural seed, and vegetable seed in containers of more than 1 pound; required information.

Sec. 4. For agricultural seed and mixtures of agricultural seed, and for vegetable seed in containers of more than 1 pound, the following information is required:

(a) The commonly accepted name of the kind, or kind and variety, of each agricultural or vegetable seed component in excess of 5% by weight of the whole and the percentage by weight of each in the order of its predominance. If the director has determined in rules promulgated under this act that a component is generally labeled as to variety, the label shall bear, in addition to the name of the kind, the name of the variety or the statement "variety not stated", except for vegetable seed, which shall be labeled as to kind and variety. If any component is a hybrid, the label shall also bear the name of the hybrid and the word "hybrid" in connection with the kind of agricultural or vegetable seed component. If the seed is a blend, the word "blend" shall appear on the label in connection with the name of the kind of agricultural or vegetable seed component. If more than 1 component is required to be named, the word "mixture" or "mix" shall be stated conspicuously on the label.

(b) The lot number or identifying mark.

(c) The percentage by weight of all weed seed present.

(d) The percentage of germination exclusive of dormant or hard seed, and the percentage of dormant or hard seed, if present, and the calendar month and year that these percentages were determined by test for each agricultural seed named.

(e) For cool season lawn and turf seed and mixtures, the statement "Sell by", which shall be not more than 15 months from the date of the germination test exclusive of the month of the test.

(f) For alfalfa, red clover, and white clover, the state or foreign country where originally grown. If the origin is unknown, that fact shall be stated.

(g) The name and the number per pound, if present, of each kind of the restricted noxious weed seed, except buckhorn and yellow rocket, which must be shown on the label only if in excess of 90 seeds per pound.

(h) The name and complete address of the person who labels the seed or sells the seed within this state.

(i) Percentage by weight of crop seed other than those required to be named on the label, and this figure shall be shown under the heading "crop" or "other crop".

(j) Percentage by weight of inert matter. Any coating material shall be included as inert matter, and a statement of percentage of the coating material may be shown immediately following inert matter.

(k) For field bean seeds, a statement indicating that the lot has been field inspected and laboratory tested and meets the disease tolerances established by the director in the manner provided for in section 7a and a statement on the label indicating the state or foreign country of origin.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996;—Am. 2016, Act 166, Eff. Sept. 7, 2016.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.705 Vegetable seed in containers of 1 pound or less and flower seed; required information; seed sold outside original container; treated vegetable and flower seed.

Sec. 5. (1) For vegetable seed packed in containers of 1 pound or less, and flower seed packed in any containers, the following information is required:

(a) The name of the kind and variety of each component. Notwithstanding the labeling requirement of this

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subdivision, flower seed may be labeled as to type and performance characteristics, as prescribed by rule.

(b) The lot number or identifying mark.

(c) The year for which the seed was packed for sale and labeled “packed for year”, or the percentage of germination exclusive of dormant or hard seed, the percentage of dormant or hard seed, and the month and year these percentages were determined by test.

(d) For seed that does not meet the minimum germination established by rule, the percentage of germination exclusive of dormant or hard seed and the percentage of dormant or hard seed, if present, with the words “below standard” printed in not less than 8-point type, and the month and year the percentages were determined by test.

(e) The name and complete address of the person who labeled the seed or who sells the seed within this state.

(f) The number of restricted noxious weed seed per pound, if any are present.

(g) For seed which is placed in preplanted containers, mats, tapes, or other planting devices in a way that makes it difficult to determine the quantity of seed, a statement to indicate the minimum number of each kind and variety of seeds in the container or device.

(2) The labeling requirements for vegetable and flower seed sold outside their original containers are met if the seed is weighed from a properly labeled container in the presence of the purchaser. However, treated vegetable and flower seed shall be accompanied by the information required in section 7 on each container sold from the original container.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.706 Forest tree seed; required information.

Sec. 6. For forest tree seed, the following information is required:

(a) The common name of the species, and the subspecies if appropriate.

(b) The scientific name of the genus and species, and the subspecies if appropriate.

(c) The lot number or other lot identification.

(d) For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, or geographic description, or the state or county.

(e) For seed collected form a predominantly nonindigenous stand, the identity of the area of collection and the origin of the stand, or the words “origin not indigenous”.

(f) The elevation or the upper and lower limits of elevation within which the seed was collected.

(g) The percentage of pure seed by weight.

(h) For those kinds of forest tree seed for which standard testing procedures are prescribed by rule, the following is required:

(*i*) The percentage of germination exclusive of dormant seed.

(*ii*) The percentage of dormant seed, if present.

(*iii*) The calendar month and the year the percentages were determined by test.

(i) In place of the requirements of subdivision (h), the seed may be labeled “test is in progress, results will be supplied upon request”.

(j) For those species for which standard germination testing procedures have not been prescribed by the director, the calendar year in which the seed was collected.

(k) The name and complete address of the person who labeled the seed or who sells seed within this state.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

Compiler's note: In subdivision (e), the words “seed collected form a predominantly nonindigenous stand” evidently should read “seed collected from a predominantly nonindigenous stand”.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.707 Seed treated with substance harmful to vertebrate animals; color; label information; description of treated seed not harmful to vertebrate animals.

Sec. 7. (1) Seed that has been treated with an irritating or poisonous substance, harmful to human or other vertebrate animals, shall be colored or dyed a color contrasting with the natural color of the seed, and shall be labeled with the following information:

(a) A warning statement in 8-point or larger type that the seed has been treated.

(b) The common, coined, chemical, or abbreviated chemical name of the substance applied to the seed.

(c) A caution statement in 8-point or larger type as follows: "treated seed—do not use for food, feed, or oil purposes".

(2) If the seed is treated, and the treatment is not irritating, poisonous, or harmful to humans or other

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vertebrate animals, the seed shall be labeled with a statement, in 8-point or larger type, describing the applied substance.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 2016, Act 166, Eff. Sept. 7, 2016.

286.707a Field beans.

Sec. 7a. (1) Field bean seed produced east of a line dividing the central and mountain time zones and sold or offered for sale in Michigan, including seed offered for sale by its producer, shall be field inspected and laboratory tested for seed borne diseases including, but not limited to, common blight (Xanthomonas phaseoli), fuscous blight (Xanthomonas phaseoli var. fuscans), halo blight (Pseudomonas phaseolicola), and anthracnose (Colletotrichum lindemuthianum), which are determined by the director to be a threat to the bean industry. The director may inspect and test seed, from other sources as necessary, to determine the presence of or freedom from seed borne diseases.

(2) The director shall approve standards, tolerances, methods, procedures, and protocols employed in field inspections and laboratory tests of field beans. The field inspections and laboratory tests for disease approved by the director shall be at least equal to those field inspections and laboratory tests utilized for certified seed under Act No. 221 of the Public Acts of 1959, being sections 286.71 to 286.75 of the Michigan Compiled Laws, and rules promulgated under that act. The director may modify those standards, tolerances, methods, procedures, and protocols described in this subsection if their application would threaten the normal propagation of a type or variety of field bean seed.

(3) In the case of field beans sold by variety name, the director may waive the requirement of inspection and analysis relative to a specific field bean disease if it is determined by the director that, through consultation with Michigan state university or other authorities recognized by the director, the variety is resistant to 1 or more specific field bean diseases.

(4) The director shall take enforcement action against any seed lots which he or she determines to be infected.

History: Add. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

286.708 Correction of erroneous or unlawful seed labels; removal of seed from sale; obtaining and replacing labels.

Sec. 8. Seed labels, when found to be in error, shall be replaced by new, correct labels. Whenever, by examination of the label or by sampling and testing of the seed or by other dependable information, the label on any container of seed is found to be unlawful or to be in error beyond the limits of tolerance allowed by law, the unlawful label shall be replaced or completely covered by a new corrected label at once if the seed is of legal quality, otherwise the seed shall be removed from sale at once. Obtaining and replacing labels shall be the responsibility of the vendor who offers the seed for sale.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

286.709 Seed; circumstances prohibiting selling, offering for sale, advertising, exposing, or transporting for sale; prohibited conduct.

Sec. 9. (1) A person shall not sell, offer for sale, advertise, expose, or transport for sale in this state any of the seed subject to this act if any 1 or more of the following circumstances exist:

(a) The seed is not labeled in accordance with this act, or has a false or misleading label.

(b) The test to determine the percentage of germination required by section 3 was not completed within an 11-month period, or a 15-month period for cool season lawn and turf seed and mixtures, exclusive of the month in which the test was completed immediately prior to sale, exposure, offering, or transporting for sale, except that a longer time shall be permitted for any kind of agricultural or vegetable seed that is packaged in container materials and under conditions prescribed under the rules promulgated under this act that will maintain the viability of the seed under ordinary conditions of handling.

(c) The seed consists of, or contains, prohibited noxious weed seed.

(d) The seed consists of, or contains, restricted noxious weed seed in excess of the limits prescribed by rule promulgated under this act.

(e) The seed has a percentage of germination, including hard seeds, that is below 60%, or, in the case of vegetable seed and flower seed, below the germination standard established in the rules promulgated under this act, unless labeled according to section 5.

(f) The seed has tags or labels on, or attached to, the container of seed including a liability or nonwarranty clause disclaiming responsibility for the information on the label required by this act.

(g) The seed has been the subject of false or misleading advertisement in any manner or by any means.

(h) The seed contains in excess of 1% by weight of all weed seeds.

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(i) The seed was not produced and labeled in accordance with the procedures and in compliance with rules as prescribed in section 2 of 1959 PA 221, MCL 286.72.

(j) If seed, under tag or label, has been substituted or altered.

(k) If stop sale orders have been instituted by the director.

(*l*) The seed is falsely represented to be a hybrid as defined in this act.

(m) A person whose name appears on the label as distributing agricultural, vegetable, or flower seed subject to this act fails to retain, for a period of 2 years, complete records of each lot of agricultural, vegetable, or flower seed distributed, fails to retain, for 1 year, a file sample of each lot of seed that is distributed after final disposition of the lot, and fails to make accessible for inspection by the director during customary business hours, records and samples pertaining to the shipment or shipments involved.

(n) If the name of the department is used in connection with the labeling or advertising or sale of any seed in any manner.

(o) If the word "trace" is used as a substitute for any statement that is required by this act.

(p) If the word "type" is used on any labeling in connection with the name of any agricultural or vegetable seed variety.

(q) There is less than the stated number of seed in the container.

(r) The seed is labeled with a brand or a trademark, or a term taken from a brand or trademark, unless the brand name or trademark is clearly identified with the word "brand" and is other than a part of the variety.

(s) The seed is labeled with a variety name but is not certified by an official seed certifying agency when it is a variety for which a United States certificate of plant variety protection, under the plant variety protection act, 7 USC 2321 to 2582, specifies sale only as a class of certified seed. However, seed from a certified lot may be labeled as to variety name if used in a mixture by, or with the approval of, the owner of the variety.

(t) For field bean seeds, the label does not include a statement indicating that the lot has been field inspected and laboratory tested and meets the disease tolerances established by the director.

(u) For field bean seeds, the lot is found to contain diseases in excess of the tolerances prescribed in section 7a.

(2) A person shall not do any of the following:

(a) Hinder, obstruct, or resist the director in the discharge of his or her duties under this act.

(b) Store, ship, or handle seed under conditions that make it impossible to properly inspect or obtain a sample representative of the seed being sold, offered, exposed, or transported for sale.

(c) Sell seed that has been treated, as defined in this act, to any person for any purpose unless the seed is colored and clearly labeled as required in section 7.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1970, Act 208, Imd. Eff. Aug. 25, 1970;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996;—Am. 2016, Act 166, Eff. Sept. 7, 2016.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.710 Applicability of MCL 286.703.

Sec. 10. Section 3 does not apply to the following:

(a) Seed or grain not intended for sowing purposes.

(b) Seed stored in, transported to, or consigned to, a conditioning establishment for conditioning if the invoice or label accompanying the shipment of the seed bears the statement “seed for conditioning”. However, any labeling or other representation which may be made with respect to the unconditioned seed is subject to this act.

(c) Except for field bean seed, seed grown, sold, and delivered by the producer on his or her own premises directly to the purchaser if the seed does not contain prohibited noxious or restricted noxious weed seed, prohibited noxious or restricted noxious weed seed in excess of limits provided by rule, or not more than 2% of all weed seed. If, however, the seed is advertised for sale through the medium of the public press, by circular, catalog, or by exposing a sample of the seed, or a printed or written statement pertaining to the seed, in a public place or in any place of business, or if the seed is delivered by a common carrier, except when transported for the purpose of being conditioned as provided in this section, the producer shall be considered a vendor and the seed shall meet all requirements of the act including complete labeling of the seed. For cereal, field bean seed, and soybean seed where the purpose for which the seed is intended may be in question, all seeds advertised for sale by variety name or as conditioned or tested, or treated or offered at a price substantially higher than current market prices, shall be presumed to be offered for seeding purposes and subject to the labeling provisions of this act.

(d) A common carrier with respect to seed transported or delivered for transportation in the ordinary course of its business, if the carrier is not engaged in producing, conditioning, or marketing seed subject to this act.

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History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.711 Duties of director; field bean seeds inspections and analyses performed by person or agency; liability; "rule" defined.

Sec. 11. (1) The director shall administer and enforce this act. The director may maintain a seed testing laboratory and facilities with all necessary equipment and analysts, inspectors, assistants, and other personnel necessary for proper enforcement of this act. The director may incur expenses as necessary to implement this act. The director shall do all of the following:

(a) Sample, inspect, analyze, and test any seed defined in this act that is sold or held for sale within this state, for seeding purposes, at the time and place and to the extent as he or she considers necessary to determine whether the seeds are in compliance with this act and notify promptly the person who sold, offered, or exposed the seed for sale of any violation found relating to the seed.

(b) Enter upon any public or private premises during regular business hours in order to have access to seeds and the records related to seeds subject to this act and the rules promulgated under this act, and upon any conveyance on land, water, or air at any time that the conveyance is accessible, for the same purpose.

(c) Promulgate any rules necessary to implement or enforce this act.

(d) Prescribe and, after public notice, establish germination standards for vegetable, flower, and forest tree seed, if necessary, to aid in the efficient enforcement of this act.

(e) Promulgate rules governing purity, germination, and other seed testing, prescribe by rule fees for testing seed that do not exceed the actual cost of conducting the test and that are comparable with fees for similar testing in other states, and establish inspection fees to enforce this act. Fees for germination and purity tests of 1 kind of agricultural seed shall not exceed $15.00 per sample. All fees collected for the testing of seeds shall be deposited with the state treasurer and credited to the general fund.

(f) Cooperate with the United States Department of Agriculture and other agencies or associations in seed law enforcement.

(2) In the case of field bean seeds, the field inspection, laboratory analysis, and the securing and submission of a representative sample shall be performed by a person or agency approved by the director. The director shall authorize the person or agency to charge fees commensurate with the activity. Producers and persons or agencies conducting analyses or inspections shall generate inspection and analysis information and maintain that information for a period of at least 2 years following final disposition of the seed lot. The approved persons and agencies and seed producers shall provide records and information regarding field inspections and laboratory tests to the director upon request.

(3) Except as otherwise provided in this subsection, a person does not have a cause of action against an inspection or testing agency or its employee if the inspection or testing agency or its employee is engaged in duties permitted by this act and utilizes written and approved procedures and protocols established by the director. An inspection or testing agency or its employee is liable for injuries to persons and damage to property under 1 or more of the following circumstances:

(a) The inspection or testing agency or its agent or employee failed to follow written procedures and protocols.

(b) The inspection or testing agency or its agent or employee improperly interpreted laboratory test results even though the written procedures and protocols were followed.

(c) The actions taken by the inspection or testing agency or its agent or employee were not within the scope of its official duties.

(4) As used in this section, "rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996;—Am. 2016, Act 258, Eff. Sept. 26, 2016.

Compiler's note: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) (“An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.”) of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.711a Field bean advisory committee.

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Sec. 11a. (1) There is created a field bean advisory committee within the department of agriculture. The committee shall review the standards, tolerances, methods, procedures, and protocols to be used by the department as well as standards utilized in other states and provinces and advise the director of its findings.

(2) Members of the committee shall be appointed by the director and shall consist of 1 individual from the following groups:

(a) The Michigan bean commission.

(b) The Michigan state university department of botany and plant pathology.

(c) The Michigan state university department of crop and soil sciences.

(d) The Michigan department of agriculture.

(e) Field bean producers.

(f) Field bean processors.

History: Add. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

Compiler's note: For transfer of powers and duties of the field bean advisory committee to the director of the department of agriculture, and abolishment of the field bean advisory committee, see E.R.O. No. 1996-3, compiled at MCL 286.731 of the Michigan Compiled Laws.

286.712, 286.713 Repealed. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

Compiler's note: The repealed sections pertained to seed testing and seizure of seeds.

286.714 Prohibition or regulation of labeling, sale, storage, transportation, distribution, use, or planting of certain seeds; ordinances by local government prohibited; exceptions.

Sec. 14. (1) Except as otherwise provided in this section, a local unit of government shall not adopt, maintain, or enforce an ordinance that prohibits or regulates the labeling, sale, storage, transportation, distribution, use, or planting of agricultural seeds, vegetable seeds, flower seeds, turf grass seeds, or forest tree seeds.

(2) A local unit of government may enact an ordinance prescribing standards different from those contained in this act and rules promulgated under this act and that prohibits or regulates the use or planting of agricultural seeds, vegetable seeds, flower seeds, turf grass seeds, or forest tree seeds under either or both of the following circumstances:

(a) Unreasonable adverse effects on the environment or public health will exist within the local unit of government.

(b) The local unit of government has determined that the activity to be prohibited or regulated within that unit of government has resulted or will result in the violation of other existing state or federal law.

(3) An ordinance enacted pursuant to subsection (2) shall not be enforced by a local unit of government until approved by the commission of agriculture. If the commission of agriculture denies an ordinance enacted pursuant to subsection (2), the commission of agriculture shall provide a detailed explanation of the basis of the denial within 30 days.

(4) Within 60 days after submission to the department of agriculture of a resolution of a local unit of government identifying unreasonable adverse effects on the environment or public health under subsection (2), the department of agriculture shall hold a local public meeting to determine the nature and extent of unreasonable adverse effects on the environment or public health. Within 30 days after the local public meeting, the department of agriculture shall issue a detailed opinion regarding the existence of unreasonable adverse effects on the environment or public health as identified by the resolution of the local unit of government.

(5) Section 15 does not apply to a violation of this section.

(6) This section does not limit the authority of a local unit of government under 1941 PA 359, MCL 247.61 to 247.72.

History: Add. 2006, Act 132, Imd. Eff. May 5, 2006.

Compiler's note: Former MCL 286.714, which pertained to injunctions, was repealed by Act 455 of 1988, Imd. Eff. Dec. 27, 1988.

286.715 Violation as misdemeanor; penalty; stop sale order; appeal; hearing; seizure of seed; condemnation of seed; application for release of seed or permission to condition or relabel seed; temporary or permanent injunction; bond not required.

Sec. 15. (1) A person who violates this act is guilty of a misdemeanor punishable by a fine of not less than $100.00 nor more than $2,000.00 for each offense, or, by imprisonment for not more than 90 days.

(2) The director may issue and enforce a written or printed stop sale order to the owner or custodian of any lot of seed the director finds to be in violation of this act. The order shall prohibit further sale, conditioning, or movement of the seed, except on approval of the director, until the director has evidence that the law has been

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complied with and has issued a release from the “stop sale” order. The owner or custodian of seed subject to a stop sale order may appeal the order to the department for a hearing, to discharge the stop sale order. The hearing shall be conducted in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(3) Any lot of seed not in compliance with this act is subject to a seizure of the lot on a complaint of the director to a court of competent jurisdiction in the locality where the seed is located. If the court finds the seed to be in violation and orders the condemnation of the seed, it shall be denatured, destroyed, relabeled, or otherwise disposed of in compliance with the law. The court shall not order the disposition of the seed without first giving the claimant an opportunity to apply to the court for the release of the seed or permission to condition or relabel the seed into compliance with this act.

(4) If the director applies to a court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating or continuing to violate this act, the injunction shall be issued without requiring a bond.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

286.716 Repealed. 2006, Act 132, Imd. Eff. May 5, 2006.

Compiler's note: The repealed section pertained to repeal of Act 314 of 1923, MCL 286.51-286.63.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1996-3

286.731 Transfer of powers and duties of field bean advisory committee to director of department of agriculture; abolishment of the field bean advisory committee.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Field Bean Advisory Committee was created by Act No. 86 of the Public Acts of 1996, being Sections 286.711a of the Michigan Compiled Laws; and

WHEREAS, the functions, duties and responsibilities assigned to the Field Bean Advisory Committee can be more effectively organized and carried out by the Director of the Department of Agriculture; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions and responsibilities of the Field Bean Advisory Committee, as set forth in Sections 286.711a of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Agriculture, by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Agriculture shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered by the Director of the Department of Agriculture.

3. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Field Bean Advisory Committee are hereby transferred to the Director of the Department of Agriculture.

4. The Director of the Department of Agriculture shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

5. The Director of the Department of Agriculture shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending business before the Field Bean Advisory Committee.

6. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

8. The Field Bean Advisory Committee is hereby abolished.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

History: 1996, E.R.O. No. 1996-3, Eff. June 3, 1996.

FERTILIZER ACT OF 1975
Act 198 of 1975

286.751-286.767 Repealed. 1995, Act 60, Imd. Eff. May 24, 1995.

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ANHYDROUS AMMONIA SECURITY ACT
Act 417 of 2006

AN ACT to establish safety and security practices for certain persons involved in the retail or wholesale sale or use of certain fertilizers; and to provide certain powers and duties for certain state agencies.

History: 2006, Act 417, Imd. Eff. Sept. 29, 2006.

The People of the State of Michigan enact:

286.771 Short title.

Sec. 1. This act shall be known and may be cited as the "anhydrous ammonia security act".

History: 2006, Act 417, Imd. Eff. Sept. 29, 2006.

286.773 Definitions.

Sec. 3. As used in this act:

(a) "AASSPs" means anhydrous ammonia safety and security practices established by the commission under section 5.

(b) "Anhydrous ammonia" means an inorganic compound that consists of 1 nitrogen atom and 3 hydrogen atoms and has a chemical formula of NH_3. Anhydrous ammonia is ammonia gas in a compressed or liquefied form but is not aqueous ammonia, which is a solution of ammonia gas in water.

(c) "Commission" means the commission of agriculture.

(d) "End user" means the person actually using anhydrous ammonia for a legal purpose.

(e) "Seller" means a person selling anhydrous ammonia at wholesale or retail to an end user for a legal purpose.

History: 2006, Act 417, Imd. Eff. Sept. 29, 2006.

286.775 AASSPs; issuance by commission; safe and secure storage practices; consideration to information and recommendations.

Sec. 5. (1) Within 6 months after the effective date of this act, the commission shall issue AASSPs regarding the security of anhydrous ammonia in the possession of sellers and end users in this state. In addition to any other practices included, the AASSPs shall provide that both of the following, either separately or in combination as the commission determines advisable, constitute safe and secure storage practices for anhydrous ammonia:

(a) Storage in a tank that is properly equipped with a functioning tank or valve lock that is used at all times except when the seller or end user is taking anhydrous ammonia from the tank or filling the tank.

(b) Storage with a substance added to the anhydrous ammonia that is or that contains a dye that will, on release from the container that holds the anhydrous ammonia, stain objects that it comes in contact with, including skin and clothing, in a highly visible manner.

(2) In establishing the AASSPs, the commission shall give due consideration to available department of agriculture information and written recommendations from the Michigan state university college of agriculture and natural resources extension, the department of state police, local law enforcement agencies, anhydrous ammonia manufacturers, retailers, and end users, and other professional and industry organizations.

History: 2006, Act 417, Imd. Eff. Sept. 29, 2006.

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APIARY LAW
Act 412 of 1976

An act to provide for the suppression of serious diseases among bees; to prescribe certain powers and duties of the director of the department of agriculture; and to repeal certain acts and parts of acts.

History: 1976, Act 412, Imd. Eff. Jan. 9, 1977;—Am. 1993, Act 108, Imd. Eff. July 16, 1993.

The People of the State of Michigan enact:

286.801 Definitions.

Sec. 1. As used in this act:

(a) "Bee disease" means American or European foulbrood, sacbrood, bee paralysis, parasites of bees, or other disease or abnormal condition of the egg, larval, pupal, or adult stages of bees.

(b) "Bees" means any life stage of the common honey bee, Apis mellifera L.

(c) "Director" means the director of the department of agriculture.

(d) "Exotic strain of bees" means African or Africanized bees or any other developed strain of bees known to be harmful but not known to be present ordinarily in this state.

History: 1976, Act 412, Imd. Eff. Jan. 9, 1977;—Am. 1982, Act 443, Imd. Eff. Dec. 30, 1982;—Am. 1984, Act 312, Imd. Eff. Dec. 21, 1984;—Am. 1993, Act 108, Imd. Eff. July 16, 1993.

286.802-286.804 Repealed. 1993, Act 108, Imd. Eff. July 16, 1993.

Compiler's note: The repealed sections pertained to apiary inspection, registration of beekeeper, and moveable frames in hives.

286.805 Repealed. 1982, Act 443, Imd. Eff. Dec. 30, 1982.

Compiler's note: The repealed section pertained to permit to sell or transport bees or used equipment and to return of bees moved for pollination.

286.805a-286.808 Repealed. 1993, Act 108, Imd. Eff. July 16, 1993.

Compiler's note: The repealed section pertained to permit for sale or transportation of bees or equipment, right of entry, notice of bee disease, and destruction of disease apiary or equipment.

286.808a Control or eradication of bee disease; order to destroy colonies; indemnification.

Sec. 8a. (1) If the division has provided the owner of 1 or more colonies not less than 30 days to remedy a bee disease within the colony or colonies and determines that the control or eradication of bee disease warrants the destruction of 1 or more colonies, the division shall order, in writing, the destruction of those colonies except that in the case of the destruction of colonies infected with American foulbrood disease, the division shall order their destruction in the manner provided for in section 8.

(2) The division shall indemnify the owner of a colony in the amount of 75% of the fair market value of a colony as of the date of destruction, less any compensation received from any source including, but not limited to, compensation for salvage value. Fair market value shall be determined by evidence of sales of similar colonies within the 12 months immediately preceeding the date of destruction of the colonies. The owner of the colony shall furnish an affidavit attesting to compensation received, if any, from any other source.

(3) Indemnification pursuant to this section shall be subject to annual appropriations by the legislature and shall not be paid from department of agriculture funds designated for any other purpose. An agreement between the department of agriculture and an owner of the colonies shall contain a provision specifying that, notwithstanding the terms of the agreement, indemnification is subject to appropriations by the legislature.

(4) Acceptance of indemnification under this section operates as a release of the claim of the owner against the state but does not enlarge or diminish the owner's civil remedy against a person responsible for the owner's loss.

(5) The department of agriculture shall not indemnify the owner of a colony acquired by the owner with knowledge that the colony is diseased or that it may have been exposed to a bee disease.

History: Add. 1993, Act 108, Imd. Eff. July 16, 1993.

286.809, 286.810 Repealed. 1993, Act 108, Imd. Eff. July 16, 1993.

Compiler's note: The repealed sections pertained to seizure and destruction of neglected or abandoned hive, and prevention of spread of disease.

286.811 Bees; quarantine; rules.

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Sec. 11. (1) If the director determines that there exists in this state or in any other state, territory, or district a serious bee disease, or an exotic strain of bees, the director may impose and enforce a quarantine restricting the transportation into, within, or through the state, of bees, bee products, or article of any character capable of carrying bee diseases.

(2) The director may promulgate rules to carry out this act, including rules to provide for seizure, inspection, disinfection, destruction, or other disposition of bees, beekeeping equipment, or bee products capable of carrying or transmitting bee diseases, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1976, Act 412, Imd. Eff. Jan. 9, 1977;—Am. 1982, Act 443, Imd. Eff. Dec. 30, 1982;—Am. 1984, Act 312, Imd. Eff. Dec. 21, 1984;—Am. 1985, Act 13, Imd. Eff. May 3, 1985;—Am. 1993, Act 108, Imd. Eff. July 16, 1993;—Am. 2006, Act 222, Imd. Eff. June 26, 2006.

286.812, 286.813 Repealed. 1993, Act 108, Imd. Eff. July 16, 1993.

Compiler's note: The repealed sections pertained to transportation of bees and equipment.

286.814 Shipping bees or beekeeping equipment into another state or country; application for inspection; acknowledgment to pay expenses; compliance with request.

Sec. 14. (1) A person who wishes to ship bees or beekeeping equipment into another state or country may apply to the director for an inspection for serious bee diseases likely to prevent the acceptance of the bees or beekeeping equipment in the state or country, and shall acknowledge in the application that person's obligation to pay full expenses of the inspection.

(2) Upon receipt of the application or as soon after receipt as may be conveniently practicable, the director shall comply with the request.

History: 1976, Act 412, Imd. Eff. Jan. 9, 1977;—Am. 1982, Act 443, Imd. Eff. Dec. 30, 1982;—Am. 1993, Act 108, Imd. Eff. July 16, 1993.

286.815, 286.816 Repealed. 1993, Act 108, Imd. Eff. July 16, 1993.

Compiler's note: The repealed sections pertained to prohibited conduct, violations, and penalties.

286.821 Repeal of MCL 286.1 to 286.22.

Sec. 21. Act No. 26 of the Public Acts of 1935, being sections 286.1 to 286.22 of the Compiled Laws of 1970, is repealed.

History: 1976, Act 412, Imd. Eff. Jan. 9, 1977.

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INDUSTRIAL HEMP RESEARCH ACT
Act 547 of 2014

AN ACT to authorize the growing and cultivating of industrial hemp for research purposes; to authorize the receipt and expenditure of funding for research related to industrial hemp; and to prescribe the powers and duties of certain state agencies and officials and colleges and universities in this state.

History: 2014, Act 547, Imd. Eff. Jan. 15, 2015.

The People of the State of Michigan enact:

286.841 Short title.

Sec. 1. This act shall be known and may be cited as the "industrial hemp research act".

History: 2014, Act 547, Imd. Eff. Jan. 15, 2015.

286.842 Definitions.

Sec. 2. As used in this act:

(a) "Department" means the department of agriculture and rural development.

(b) "Fund" means the industrial hemp research fund created in section 4.

(c) "Industrial hemp" means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

History: 2014, Act 547, Imd. Eff. Jan. 15, 2015.

286.843 Industrial hemp; growing, cultivating, or transporting; grants.

Sec. 3. (1) The department or a college or university in this state may grow or cultivate, or both, industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research project.

(2) The department or a college or university that transports industrial hemp as part of a research project authorized under this act shall include along with a shipment of industrial hemp a letter on the department's or the college's or university's letterhead that provides notice that the shipment includes industrial hemp authorized under the industrial hemp research act.

(3) A college or university in this state may receive direct grants from the federal government or any other source for the purpose of conducting research authorized under this act.

History: 2014, Act 547, Imd. Eff. Jan. 15, 2015.

286.844 Industrial hemp research fund; creation; deposit of money or other assets; investment; interest and earnings; money remaining in fund at close of fiscal year; department as administrator; expenditures; purposes.

Sec. 4. (1) The industrial hemp research fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including federal research grants. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) Research into growing or cultivating, or both, industrial hemp.

(b) Providing grants to colleges or universities in this state to conduct research into growing or cultivating, or both, industrial hemp.

History: 2014, Act 547, Imd. Eff. Jan. 15, 2015.

GROUNDWATER AND FRESHWATER PROTECTION ACT
Act 247 of 1993

286.851-286.868 Repealed. 1994, Act 451, Eff. Mar. 30, 1995.

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MICHIGAN AQUACULTURE DEVELOPMENT ACT
Act 199 of 1996

AN ACT to define, develop, and regulate aquaculture as an agricultural enterprise in this state; to provide powers and duties of certain state agencies and departments; and to provide for certain penalties and remedies.

History: 1996, Act 199, Eff. Aug. 16, 1996.

The People of the State of Michigan enact:

286.871 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan aquaculture development act".

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.872 Definitions.

Sec. 2. As used in this act:

(a) "Aquacultural products" means any products, coproducts, or by-products of aquaculture species.

(b) "Aquaculture" means the commercial husbandry of aquaculture species on the approved list of aquaculture species, including, but not limited to, the culturing, producing, growing, using, propagating, harvesting, transporting, importing, exporting, or marketing of aquacultural products under an appropriate permit or registration.

(c) "Aquaculture facility" means a farm or farm operation engaged in any aspect of aquaculture in privately controlled waters capable of holding all life stages of aquaculture species with a barrier or enclosure to prevent their escape into waters of the state.

(d) "Aquaculture facility registration" means a registration issued by the director allowing a facility to engage in aquaculture.

(e) "Aquaculture research permit" means a permit issued by the director to researchers to study and culture aquaculture species not included on the approved list of aquaculture species for the evaluation of aquacultural potential and to provide a scientific basis for including the aquaculture species on the approved list.

(f) "Aquaculture species" means aquatic animal organisms including, but not limited to, fish, crustaceans, mollusks, reptiles, or amphibians reared or cultured under controlled conditions in an aquaculture facility.

(g) "Aquaculturist" means a person involved in or engaged in any aspect of aquaculture.

(h) "Aquarium" means any park, building, cage, enclosure, or other structure or premises in which aquaculture species are kept for public exhibition or viewing, regardless of whether compensation is received.

(i) "Confinement research facility" means a facility holding an aquaculture research permit, enclosed in a secure structure, and separated from other aquaculture facilities and in which aquaculture species are isolated and maintained in complete and continuous confinement to prevent their escape into the environment and to prevent the release of any possible pathogens into the environment.

(j) "Department" means the Michigan department of agriculture.

(k) "Director" means the director of the Michigan department of agriculture or his or her designee.

(*l*) "Farm" or "farm operation" means those terms as defined in the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

(m) "Genetically engineered" refers to an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably using recombinant nucleic acid techniques, or the progeny thereof.

(n) "Law enforcement officer" means a person appointed by the state or a local governmental unit who is responsible for the enforcement of the criminal laws of this state.

(o) "Person" means an individual, corporation, limited liability company, partnership, association, joint venture, or other legal entity.

(p) "Privately controlled waters" means waters controlled within ponds, vats, raceways, tanks, and any other indoor or outdoor structure wholly within or on land owned or leased by an aquaculturist and used with an aquaculture facility or confinement research facility. Privately controlled waters includes those waters diverted for use in an aquaculture facility by an aquaculturist exercising his or her riparian rights.

(q) "Recombinant nucleic acid techniques" means laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism.

(r) "Retail bait outlet" means a facility that sells directly to the consumer any live or dead organism, edible or digestible material, organic or processed food, or scented material each of which may be used to attract fish, including, but not limited to, worms, leeches, aquatic insects, crayfish, amphibians, fish eggs, minnows or other fish, marshmallows, cheese, pork rinds, or any part thereof.

(s) "Retail ornamental fish facility" means a facility in which a person sells, imports or exports at

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wholesale or retail, leases, or loans ornamental species of aquatic organisms that may live in fresh, brackish, or saltwater environments to the general public for home or public display purposes.

(t) "Waters of the state" means groundwaters, lakes, rivers, and streams and all other watercourses and waters within the jurisdiction of the state and also the Great Lakes bordering the state.

(u) "Zoo" means any park, building, cage, enclosure, or other structure or premises in which a live animal is kept for public exhibition or viewing, regardless of whether compensation is received.

History: 1996, Act 199, Eff. Aug. 16, 1996;—Am. 2003, Act 272, Eff. Mar. 30, 2004.

286.873 Administration of act; assistance by department.

Sec. 3. (1) The department shall administer this act.

(2) The department may conduct activities designed to develop and assist the aquaculture industry in the manner provided for by law.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.874 Aquaculture as agricultural enterprise; products as property of aquaculturist; riparian rights for water diversion; exemption from certain restrictions; limitations on authority of aquaculturist; genetically engineered variant.

Sec. 4. (1) Aquaculture is an agricultural enterprise and is part of the farming and agricultural industry of this state. The director shall assure that aquaculture is afforded all rights, privileges, opportunities, and responsibilities of other agricultural enterprises.

(2) Aquaculture is a form of agriculture. Aquaculture facilities and aquaculture uses are a form of agricultural facilities and uses.

(3) Aquacultural products lawfully taken, produced, purchased, possessed, or acquired from within this state or imported into this state are the exclusive and private property of the aquaculturist.

(4) This act does not prohibit an aquaculturist from exercising riparian rights for water diversion. If water is discharged back into the waters of the state, the discharge shall be pursuant to any appropriate permit issued by the department of environmental quality, if such a permit is required.

(5) An aquaculturist harvesting aquaculture species from a registered aquaculture facility or a permitted confinement research facility is exempt from size, catch, and possession limits, closed seasons, and any other restriction imposed in parts 459 and 487 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.45901 to 324.45908 and 324.48701 to 324.48740.

(6) This act does not give an aquaculturist authority to take wild species from the waters of the state and held in trust, in violation of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, unless under a permit issued by the department of natural resources.

(7) This act does not give an aquaculturist authority to release any aquaculture species into any waters of the state that are not an aquaculture facility unless the aquaculturist first obtains an appropriate permit from the director of the department of natural resources. It is intended that the department of natural resources shall consider a registration issued under this act as the equivalent of a game fish breeders license issued under part 459 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.45901 to 324.45908.

(8) Any movement, importing, or exporting of aquaculture species shall be in compliance with the animal industry act, 1988 PA 466, MCL 287.701 to 287.745, for purposes of obtaining a planting permit.

(9) For the purposes of this act, each genetically engineered variant of an aquaculture species shall be considered a distinct aquaculture species. A genetically engineered variant of an aquaculture species is not included on the list of approved aquaculture species under section 5 unless specifically identified on the list or specifically identified in a rule promulgated under section 12 as being included on the list. A genetically engineered organism that is a variant of an aquaculture species is not covered by an aquaculture research permit under section 8 unless specifically identified in the permit. An entry on the list of approved aquaculture species under section 5, a rule promulgated under section 12, or an aquaculture research permit under section 8 may be limited to a genetically engineered organism.

History: 1996, Act 199, Eff. Aug. 16, 1996;—Am. 2003, Act 272, Eff. Mar. 30, 2004.

Compiler's note: For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

286.875 Approved species for aquaculture production; list.

Sec. 5. (1) There is established a list of approved species for aquaculture production as further described in this section. Only the aquaculture species on the approved list are allowed for purposes of aquaculture

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production. The following types of aquaculture species are qualified for inclusion on the list of approved species:

(a) Aquaculture species that are naturally indigenous within the waters of the state.

(b) Aquaculture species that have been naturalized within the waters of the state.

(c) Aquaculture species that could not perpetuate in the waters of the state.

(d) Aquaculture species that are held in a confinement research facility for purposes of research that, on the basis of that research, may be recommended to be included on the list of approved aquaculture species.

(2) Approved freshwater species are as follows:

(a) Lake sturgeon (Acipenser fulvescens)
(b) Paddlefish (Polyodon spathula)
(c) Arctic grayling (Thymallus arcticus)
(d) Atlantic salmon (Salmo salar)
(e) Brown trout (Salmo trutta)
(f) Brook trout (Salvelinus fontinalis)
(g) Splake (Salvelinus namaycush x Salvelinus fontinalis)
(h) Lake trout (Salvelinus namaycush)
(i) Chinook salmon (Oncorhynchus tshawytscha)
(j) Coho salmon (Oncorhynchus kisutch)
(k) Pink salmon (Oncorhynchus gorbuscha)
(*l*) Rainbow trout (Oncorhynchus mykiss)
(m) Lake whitefish (Coregonus clupeaformis)
(n) Lake herring (Coregonus artedi)
(o) Muskellunge (Esox masquinongy)
(p) Northern pike (Esox lucius)
(q) Tiger muskie (Esox masquinongy x Esox lucius)
(r) Common carp (Cyprinus carpio)
(s) Goldfish (Carassius auratus)
(t) Creek chub (Semotilus atromaculatus)
(u) Bowfin (Amia calva)
(v) Redbelly dace (Phoxinus eos)
(w) Finescale dace (Phoxinus neogaeus)
(x) Common shiner (Luxilus cornutus)
(y) Golden shiner (Notemigonus crysoleucas)
(z) Emerald shiner (Notropis atherinoides)
(aa) Bluntnose minnow (Pimephales notatus)
(bb) Fathead minnow (Pimephales promelas)
(cc) Black bullhead (Ameiurus melas)
(dd) Yellow bullhead (Ameiurus natalis)
(ee) Brown bullhead (Ameiurus nebulosus)
(ff) Channel catfish (Ictalurus punctatus)
(gg) Flathead catfish (Pylodictis olivaris)
(hh) Burbot (Lota lota)
(ii) Smallmouth bass (Micropterus dolmieu)
(jj) Largemouth bass (Micropterus salmoides)
(kk) White crappie (Pomoxis annularis)
(*ll*) Black crappie (Pomoxis nigromaculatus)
(mm) Hybrid crappie (Pomoxis annularis x Pomoxis nigromaculatus)
(nn) Warmouth (Lepomis gulosus)
(oo) Rock bass (Ambloplites rupestris)
(pp) Green sunfish (Lepomis cyanellus)
(qq) Bluegill (Lepomis macrochirus)
(rr) Hybrid bluegill (Lepomis cyanellus x Lepomis macrochirus)
(ss) Pumpkinseed (Lepomis gibbosus)
(tt) Redear sunfish (Lepomis microlophus)
(uu) Sauger (Stizostedion canadense)
(vv) Walleye (Stizostedion vitreum vitreum)
(ww) Saugeye (Stizostedion canadense x Stizostedion vitreum vitreum)

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(xx) Yellow perch (Perca flavescens)
(yy) Bigmouth buffalofish (Ictiobus cyprinellus)
(zz) Black buffalofish (Ictiobus niger)
(aaa) White perch (Morone americana)
(bbb) White bass (Morone chrysops)
(ccc) Tilapia (Genera of Tiliapia (except T. rondeliia), Oreochromis, Sarotheradom and hybrids thereof)

(3) Approved other aquatic organisms are as follows:

(a) Prawn (Macrobrachium rosenbergii)
(b) Crayfish (Orconectes immunus, O. propinquus, O. virilis, Cambarus bartonii, C. robustus)

(4) Approved salt or brackish waters species are as follows:

(a) Brine shrimp (Artemia sp.)
(b) Shrimp (All species of the genus Peneaus)
(c) Mahi-mahi (Coryphaena hippurus)
(d) Haddock (Melanogrammus aeglefinus)
(e) Cod (Gadus sp.)
(f) Halibut (Hippoglossus sp.)
(g) Snapper (Lutjanidae-Lutjanus sp. Ocyurus sp.)
(h) Grouper (Serranidae-Epinephelus sp. Mycteroperca sp.)
(i) Red drum (Sciaenops ocellatus)
(j) Tuna (Thunnus thynnus)
(k) Flounder (Paralichthys sp.)
(l) Pompano (Trachinoyus sp.)
(m) Snook (Centropomus sp.)
(n) Mackerel (Scomberomorus sp.)

(5) Aquaculture species, possession of which is prohibited under the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.101 to 324.90106 of the Michigan Compiled Laws, are prohibited for aquaculture or aquaculture research under this act.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.876 Registration required; exceptions; records; documentation.

Sec. 6. (1) A person shall not engage in aquaculture unless he or she obtains a registration from the department as an aquaculture facility, obtains an aquaculture research permit, or unless otherwise exempt by rule or law. If the activity in which the aquaculture facility is engaged is required to be regulated under any act, registration under this act does not exempt the person or aquaculture facility from requirements imposed under any local, state, or federal regulation.

(2) The following are exempt from registration as an aquaculture facility:

(a) Retail bait outlets.

(b) Retail ornamental fish facilities.

(c) Persons using privately controlled waters for noncommercial purposes.

(d) Public aquariums or zoos.

(e) Portable retail fishing concessions.

(3) A person registered or permitted under this act shall keep and maintain records of production, purchases, or imports in order to establish proof of ownership. A person transporting aquaculture species shall produce documentation that contains the origin of shipment, registration or permit copies or documentation, documentation demonstrating shipping destination, and any other proof that may be required under the animal industry act of 1987, Act No. 466 of the Public Acts of 1988, being sections 287.701 to 287.747 of the Michigan Compiled Laws, upon demand of the director or a law enforcement officer.

(4) An aquaculture facility in existence before January 1, 1997 is required to obtain a registration or permit, or both, if applicable, by January 1, 1999 in order to continue to engage in aquaculture. Any person engaging in aquaculture beginning on or after January 1, 1997 is required to obtain a registration or permit under this act, or both, if applicable, in order to engage in aquaculture.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.877 Initial application; submission; inspection; issuance of registration or permit; denial; notice; second inspection; hearing; return of registration or permit fee prohibited;

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contents of permit; renewal application; modification of permit.

Sec. 7. (1) A completed initial application for a registration shall be submitted to the department not less than 60 days before the proposed operation of the aquaculture facility.

(2) The department shall not issue an initial aquaculture facility registration or an aquaculture research permit unless an applicant demonstrates the following:

(a) The facility has been inspected by the director and the director has determined that the facility meets the standards and requirements prescribed by this act and that there are barriers in place to prevent the escape of aquaculture species into the public waters.

(b) The aquaculture species involved in the facility is on the list of approved aquaculture species.

(c) The owner or his or her agent has received from the director a current copy of the "Great Lakes fish disease control policy and model program", published by the Great Lakes fishery commission.

(3) Within 30 days after receipt of an initial registration or permit application, the director shall inspect the aquaculture facility. If the director determines that the facility to be utilized under a registration or permit conforms to standards prescribed by this act, verifies that unlisted aquaculture species are not in the facility, and reviews and approves research protocols in the case of a proposed aquaculture research permit, the director shall issue a registration or permit within 60 days of receipt of a registration or permit application.

(4) The application for a registration or permit may be denied for failure to comply with the requirements of this act. The department shall notify an applicant of the reasons for a registration or permit denial within 60 days after receipt of an application. The notice shall specify the deficiencies to be corrected in order for a registration or permit to be issued.

(5) Without filing a second application under this section, an applicant may request a second inspection after the specified deficiencies have been corrected. The department shall not make more than 2 preregistration or prepermitting inspections of the same facility per application.

(6) The applicant may request a hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, on a denial of a registration or permit.

(7) The department shall not return a registration or permit fee or a portion of a registration or permit fee to an applicant if a registration or permit is denied.

(8) A registration and permit issued by the department shall contain the following information:

(a) The registration or permit number and expiration date.

(b) The complete name, business name, business address, and telephone number of the aquaculture facility registration holder or aquaculture research permit holder.

(c) The complete address of the aquaculture facility or confinement research facility location.

(d) The list of aquaculture species approved for the registered or permitted facility.

(e) The complete name, address, and telephone number of the department contact person regarding aquaculture.

(9) Applications for an aquaculture facility shall be accompanied by the following fees:

(a) Aquaculture facility registration - initial application, $100.00.

(b) Aquaculture facility registration - renewal application, $75.00.

(c) Aquaculture research permit - initial application, $250.00.

(d) Aquaculture research permit - renewal application, $100.00.

(10) Application for renewal of an aquaculture facility registration or aquaculture research permit shall be submitted not later than October 1 of each year. Each registration and permit issued shall be for a period of 1 year commencing October 1 and ending the following September 30.

(11) A renewal submitted later than October 31 shall require submission of an initial application and initial license fee.

(12) An aquaculturist may apply on a form provided by the department for a modification of the aquaculture facility registration or a confinement research permit to add or remove aquaculture species.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.878 Research of aquaculture species not on approved list; research permit; approval of protocol.

Sec. 8. (1) Research of an aquaculture species not on the approved list is allowed and shall be conducted pursuant to an aquaculture research permit in a confinement research facility.

(2) A person who holds an aquaculture research permit shall not import aquaculture species that are the subject of the research unless he or she complies with the animal industry act of 1987, Act No. 466 of the Public Acts of 1988, being sections 287.701 to 287.747 of the Michigan Compiled Laws.

(3) The director shall approve the protocol of the aquaculture species, including disposition, for the

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proposed research period. The applicant for the aquaculture research permit shall submit the protocol to the department with the initial or renewal aquaculture research permit application.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.879 Inspection of facilities by department; access; conduct; conditions.

Sec. 9. (1) The department or its duly authorized agent shall have free access at all reasonable hours to any aquaculture facility or confinement research facility to inspect and to determine if this act is being violated and to secure samples or specimens of any aquaculture species after paying or offering to pay fair market value for such sample or specimen. An inspection shall be conducted under generally recognized practices designed not to jeopardize the health of the aquaculture species.

(2) The director may periodically inspect a registered aquaculture facility and a permitted confinement research facility for the following:

(a) For registered and permitted facilities, confirmation that there are in place procedures or barriers designed to prevent the escape of aquaculture species into waters of the state and confirmation of compliance with other requirements as set forth in this act or as required by law.

(b) For registered facilities, confirmation that the aquaculture species are on the approved list.

(c) For permitted facilities, confirmation that the facility is following approved protocols and all specimens are accounted for.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.880 Prohibited conduct.

Sec. 10. A person shall not knowingly provide false information in a matter pertaining to this act and shall not resist, impede, or hinder the director in the discharge of his or her duties under this act.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.881 Failure to comply with act or rules; authority of department to deny, suspend, revoke, or limit registration or permit; conduct of proceeding.

Sec. 11. (1) The department may deny, suspend, revoke, or limit a registration or permit if an applicant, registrant, or permittee fails to comply with or violates this act or rules promulgated under this act.

(2) A proceeding relative to the suspension or revocation of a registration or permit shall be conducted pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.882 Rules.

Sec. 12. The director may promulgate rules he or she considers necessary to implement and enforce this act, pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.883 Violation as misdemeanor; penalty; costs; attorney fees; authority of director; actions brought by attorney general or director.

Sec. 13. (1) A person who violates this act or a rule promulgated under this act is guilty of a misdemeanor punishable by a fine of not less than $300.00 or imprisonment for not less than 30 days, or both.

(2) The court may allow the department to recover reasonable costs and attorney fees incurred in a prosecution resulting in a conviction for a violation of subsection (1).

(3) The director, upon finding that a person has violated any provisions of this act or a rule promulgated under this act, may do any of the following:

(a) Issue a warning.

(b) Impose an administrative fine of not more than $1,000.00 for each violation after notice and an opportunity for a hearing. A person aggrieved by an administrative fine issued under this section may request a hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(c) Issue an appearance ticket as described and authorized by sections 9a to 9g of chapter 4 of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 764.9a to 764.9g of the Michigan Compiled Laws.

(4) The director shall advise the attorney general of the failure of any person to pay an administrative fine imposed under this section. The attorney general shall bring a civil action in a court of competent jurisdiction

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to recover the fine. Civil penalties collected shall be paid to the general fund.

(5) Notwithstanding any other provisions of this act, the director may bring an action to do either or both of the following:

(a) Obtain a declaratory judgment that a method, activity, or practice is a violation of this act.

(b) Obtain an injunction against a person who is engaging in a method, activity, or practice that violates this act.

History: 1996, Act 199, Eff. Aug. 16, 1996.

286.884 Effective date.

Sec. 14. This act shall take effect 90 days after the date of its enactment.

History: 1996, Act 199, Eff. Aug. 16, 1996.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2007-26

286.891 Abolishment of organic advisory committee and transfer of its powers and duties to department of agriculture.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

WHEREAS, abolishing the Organic Advisory Committee will contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Department of Agriculture" means the principal department of state government created under Section 1 of 1921 PA 13, MCL 285.1, and Section 175 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.275.

B. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

C. "Type III transfer" means that term as defined under Section 3(c) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. TRANSFER OF AUTHORITY

A. Any and all of the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the Organic Advisory Committee created within the Department of Agriculture under Section 25 of the Michigan Organic Products Act, 2000 PA 316, MCL 286.925, are transferred by Type III transfer to the Department of Agriculture.

B. The Organic Advisory Committee is abolished.

III. IMPLEMENTATION OF TRANSFERS

A. The Director of the Department of Agriculture shall provide executive direction and supervision for the implementation of all transfers of functions under this Order and shall make internal organizational changes as necessary to complete the transfers under this Order.

B. The functions transferred under this Order shall be administered by the Director of the Department of Agriculture in such ways as to promote efficient administration.

C. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Organic Advisory Committee for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Department of Agriculture.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

IV. MISCELLANEOUS

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective July 29, 2007 at 12:01 a.m.

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History: 2007, E.R.O. No. 2007-26, Eff. July 29, 2007.

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MICHIGAN ORGANIC PRODUCTS ACT
Act 316 of 2000

AN ACT to define organic agriculture and products; to provide for the establishment of standards relative to organic products, producers and handlers of organic products, and other persons; to provide for designation of certain entities as certifying agents; to provide for registration of certain persons; to create certain funds and provide for their disposition; to create certain advisory committees; to provide for certain powers and duties of certain state agencies; and to provide for penalties and remedies.

History: 2000, Act 316, Eff. Oct. 1, 2001.

The People of the State of Michigan enact:

286.901 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan organic products act".

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.903 Definitions; A to D.

Sec. 3. As used in this act:

(a) "Agricultural product" means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed for human or livestock use or consumption.

(b) "Certification" or "certified" means a determination made by a registered certifying agent that an agricultural product has been produced and handled in compliance with the Michigan organic standards.

(c) "Certifying agent" means an entity registered by the department that certifies production or handling operations or portions of production or handling operations as meeting the Michigan organic standards.

(d) "Commingling" means the mixing together of or physical contact between unpackaged organic products and nonorganic agricultural products during production or handling.

(e) "Crop" means a plant or part of a plant marketed or intended to be marketed as an agricultural product or fed or intended to be fed to livestock.

(f) "Department" means the Michigan department of agriculture.

(g) "Director" means the director of the department or his or her designee.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.905 Definitions; G to L.

Sec. 5. As used in this act:

(a) "Genetically modified organism" means substances or their derivatives created by genetic engineering techniques that alter the molecular or cell biology of an organism by means that are not possible under natural conditions or processes. Genetic engineering includes, but is not limited to, recombinant DNA techniques, cell fusion, micro- and macro-encapsulation, gene deletion and doubling, introducing foreign genes, and changing the positions of genes. Genetic engineering does not include breeding, conjugation, fermentation, hybridization, in-vitro fertilization, or tissue culture.

(b) "Handle" means to sell, process, or package agricultural products.

(c) "Handler" means any person engaged in the business of handling agricultural products as organic products including producers who handle crops or livestock of their own production.

(d) "Handling operation" means any operation or portion of an operation that sells, transports, receives, or otherwise acquires agricultural products as organic products and processes, packages, or stores such organic products.

(e) "Ionizing radiation" means gamma-ray emissions from radioactive isotopes such as cobalt-60 or cesium-137; x-rays; electron beams; or any other radiation capable of altering a food's molecular structure, used for purposes that include, but are not limited to, controlling microbes, pathogens, parasites, and pests in food, preserving a food, or inhibiting physiological processes such as sprouting or ripening.

(f) "Labeling" means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers or accompanying the article.

(g) "Livestock" means any cattle, sheep, goat, swine, poultry, captive cervidae, ratites, or equine animals used for food, fiber, feed, or other agricultural based consumer products, wild or domesticated game, or other nonplant life including fish or bees.

History: 2000, Act 316, Eff. Oct. 1, 2001.

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286.907 Definitions; M to P.

Sec. 7. As used in this act:

(a) "Michigan organic standards" means those organic production and handling standards defined by this act, rules adopted under this act, or both, that are designed to combine organic production or handling practices and an audit trail that will ensure the integrity of organic products from the producer to the consumer.

(b) "Organic" means a labeling term referring to an agricultural product produced in accordance with the standards described in this act, rules adopted under this act, or both.

(c) "Organic advisory committee" means the committee created under section 25.

(d) "Organic agriculture" means an agricultural management system that enhances biodiversity, biological cycles, and soil biological activity to produce healthy plants and animals and fosters human and environmental health. Organic agriculture does not include the use of synthetic chemicals, genetically modified organisms, sewage sludge, and ionizing radiation, or any combination of those substances.

(e) "Organic plan" means a plan of management of an organic production or handling operation that has been agreed to by the producer or handler and the certifying agent and that includes written plans concerning all aspects of agricultural production and handling as described in this act, rules adopted under this act, or both.

(f) "Organic product" means agricultural products including, but not limited to, crops, livestock, livestock products, or other agricultural products that are produced organically for human or livestock use or consumption. Organic products does not include personal care products.

(g) "Person" means an individual, group of individuals, contractor, corporation, limited liability company, partnership, joint venture, cooperative, community supported agricultural entity, or any other legal entity.

(h) "Processing" means processes that include, but are not limited to, cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or other manufacturing process and includes the packaging, canning, jarring, or otherwise enclosing of food in a container.

(i) "Producer" means a person who engages in the business of growing or producing agricultural products.

(j) "Prohibited substance" means a substance whose use in any aspect of organic production or handling is prohibited or not provided for under this act, rules adopted under this act, or both.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.909 Definitions; R to W.

Sec. 9. As used in this act:

(a) "Retail food establishment" means a restaurant, delicatessen, bakery, grocery store, or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar, or other eat-in or carry-out service or a processed or prepared raw or ready-to-eat food that is considered to be or is within the definition of handling operation.

(b) "Sewage sludge" means solid, semisolid, liquid, or ash residue generated during treatment of domestic or industrial sewage in a treatment works.

(c) "Synthetic" means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources except those substances created by naturally occurring biological processes.

(d) "Waters of the state" means ground waters, lakes, rivers, and streams and all other watercourses and waters within the jurisdiction of the state and also the Great Lakes bordering the state.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.911 Authority of department to regulate, promote, and assist organic industry; sale, offer for sale, or representation as organic product; registration required.

Sec. 11. (1) The department may engage in or conduct activities to regulate, promote, and assist the organic industry in the manner provided by law. The department has the authority to enter into reciprocity agreements with other states' departments of agriculture and the United States department of agriculture and may require certain conditions and records be met and maintained by certifying agents. The department may work with the organic advisory committee and national and state recognized certification groups and programs in formulating its policies, rules, and requirements.

(2) A person shall not sell, offer for sale, or represent an agricultural product to be an organic product unless the agricultural product has been certified. The organic product must be certified by a registered certifying agent.

(3) A person shall not certify an agricultural product as an organic product unless that person is registered with the department as a certifying agent.

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(4) A handler that sells, offers for sale, or represents an agricultural product to be an organic product must register with the department.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.913 Production, sale, or handling of organic products; certification required; exceptions; retail food establishments.

Sec. 13. (1) The following persons must be certified by a certifying agent registered by the department in order to engage in the production, sale, or handling of organic products:

(a) A producer who sells, intends to sell, or represents that he or she is engaged in the business of selling to the public.

(b) A handler.

(c) A handling operation except as otherwise provided in this section.

(2) Handling operations, including wholesalers and retailers, that do not process, produce, package, or relabel organic products under their own name or for private label, or make organic claims about their operations or label their operation or a particular part of their operation as organic, are not required to be certified or registered.

(3) A handling operation not required to be certified must demonstrate to the satisfaction of the director that it strictly complies with all of the following:

(a) Implements measures necessary for the prevention of commingling organic and nonorganic products.

(b) Implements measures necessary to protect organic products from coming into contact with prohibited substances.

(c) Maintains records sufficient to prove that organic products are certified and registered as required by this act, rules adopted under this act, or both.

(d) Verifies quantities of organic products in a manner acceptable to the director.

(e) Maintains records sufficient to verify compliance with this act and permits access to those records by the director for inspection and copying during normal business hours in order to determine compliance with this act.

(f) Clearly labels, posts, or maintains original organic certification information or identification of the organic product it handles.

(4) Retail food establishments advertising as organic, labeling as organic, or making organic claims about a final product, their operation, or a particular part of their operation are required to be certified or registered.

(5) Retail food establishments not advertising as organic, not labeling as organic, or not making organic claims about any of the following are not subject to this act:

(a) Their final product.

(b) An ingredient.

(c) Their operation.

(d) A particular part of their operation.

(6) Retail food establishments not required to be certified or registered may offer agricultural products for sale that contain organic and nonorganic components and may use a phrase such as “made with certified organic (specified ingredients)” if those organic components were certified in accordance with this act and the requirements in subsection (3)(b) through (f) are met.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.915 Registration as certifying agent; fee; demonstration of compliance; expiration; renewal.

Sec. 15. (1) A person who desires to act as a certifying agent shall register with the department on a form provided by the department and pay a nonrefundable registration fee annually established by the department.

(2) Upon payment of the appropriate annual registration fee and demonstration of the applicant of compliance with section 17, the department shall issue a registration to the applicant for a term of 1 year.

(3) Registration expires December 1 of each year and may be renewed by submission of a renewal application and payment of the appropriate annual registration fee. The registration fee shall be an amount as determined by the commission of agriculture.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.917 Registration as certifying agent; demonstration of compliance; requirements.

Sec. 17. To obtain a registration as a certifying agent, an applicant shall demonstrate to the satisfaction of the director all of the following:

(a) Certification standards meeting or exceeding the Michigan organic standards.

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(b) A requirement that producers or handlers that will be certified establish an organic plan.

(c) The establishing and following of a procedure that allows producers and handlers to appeal an adverse certification determination.

(d) A requirement that each person it certifies demonstrate to the satisfaction of the certifying agent on an annual basis that the person has produced, handled, sold, offered for sale, advertised, or labeled as organic an agricultural product in compliance with the standards imposed under this act.

(e) Providing for at least an annual on-site inspection of each person it certified.

(f) A requirement for the conduct of residue testing of organic products that have been produced on certified organic farms and handled through certified handling operations to determine whether such products contain any prohibited substances if determined necessary by the director.

(g) The following of adequate procedures necessary to carry out the certifying duties of this act.

(h) Protecting against conflict of interest.

(i) The establishing of a process that ensures impartiality of the registrant's inspectors to include, at a minimum, training in organic certification procedures and other related issues determined necessary and approved by the director.

(j) Providing to the director the names, addresses, and agricultural products certified for all persons certified by the registrant not less than annually or upon request of the director. A certifying agent has a continuing duty to update names or products as deletions and additions occur.

(k) Allowing the director access during normal business hours to relevant records including, but not limited to, business records relating to issuance of the certification, certification documents relating to clients, and laboratory analyses.

(*l*) Complying with any other reasonable and necessary requirements imposed by the director to ensure compliance with this act.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.919 Registration of handler; application; fee; basis; schedule; coordination of registration procedures.

Sec. 19. (1) A handler required to be registered under this act shall provide the following on its application for registration:

(a) The name and address of the registrant.

(b) The nature of the registrant's business.

(c) A listing of the brands or agricultural products, or both, that are sold, offered for sale, or represented as organic.

(d) The names and addresses of all certifying agents providing certification.

(e) Sufficient information to enable the director to verify the registration fee to be paid.

(2) The registration fee is based upon gross organic sales from the calendar year that precedes the date of registration or, if no sales were made in the preceding year, based upon the expected sales during the calendar months following the date of registration.

(3) Fee schedule is as follows:

Gross Organic Sales	Registration Fee
$0 - 5,000	$10
$5,001 - 25,000	$25
$25,001 - 100,000	$50
$100,001 - 500,000	$100
$500,001 - 1,000,000	$200
$1,000,001 - above	$400

(4) To the extent feasible, the director shall coordinate the registration and fee collection procedures of this section with the process for registration of the certifying agents.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.920 Organic products fund; establishment in state treasury; receipt, deposit, and expenditure of funds; carrying forward unexpended funds.

Sec. 20. (1) An organic products fund is established in the state treasury. The organic products fund shall be expended only as provided in subsection (3).

(2) The organic products fund shall receive as revenue money as appropriated by the legislature, all registration fees collected under this act, and money from any other source to be forwarded by the director to the state treasurer for deposit into the organic products fund. Any administrative fines and penalties collected by the department under this act shall be deposited into the general fund, and it is the intent of the legislature

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that an amount equal to the annual amount of administrative fines and penalties collected by the department be appropriated to the department for purposes of this act.

(3) The money in the organic products fund shall be expended to administer and enforce this act and to develop and improve organic training and education programs.

(4) Money in the organic products fund that is unexpended at the end of the fiscal year shall be carried over to the succeeding fiscal year and shall not revert to the general fund.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.921 Rules; scope.

Sec. 21. (1) By promulgation of rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the director may adopt standards that meet or exceed the standards for organic products of the United States department of agriculture agricultural marketing service, or equivalent national organic program. The standards shall include a list of prohibited substances. In no case shall this act, the standards, or both, permit the use of synthetic chemicals, genetically modified organisms, sewage sludge, ionizing radiation, or any combination of those substances. The director shall consult with the organic advisory committee regarding the development of and changes to the Michigan organic standards. The director may adopt additional standards that he or she determines necessary, including, but not limited to, protecting the waters of this state, the state natural resources, or the integrity of organic agriculture.

(2) The standards contained in 7 CFR part 205, national organic program, are adopted by reference. The director may adopt any other standards he or she determines substantially equivalent upon 10 days' notification of such determination on the department internet website, or other form of notice considered appropriate by the director and designed to inform the industry and general public.

History: 2000, Act 316, Eff. Oct. 1, 2001;—Am. 2006, Act 223, Imd. Eff. June 26, 2006.

286.922 Reciprocity agreement with another state, country, or private certifying organization.

Sec. 22. (1) The department may enter into a reciprocity agreement with a state or country that has an organic program that has been determined by the director to be substantially equivalent. This includes, but is not limited to, certification standards for organic producers or handlers or products, licensure, or other state regulation of certifying agents.

(2) In a state or country that the director has determined to have no organic program including, but not limited to, certification standards for organic producers or handlers or products, licensure, or other regulation of certifying agents, the director may enter into a reciprocity agreement with private certifying organizations upon demonstration to the director's satisfaction that their program, including certification standards, meets or exceeds those established under this act, rules adopted under this act, or both.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.923 Labeling and advertisement; requirements; circumstances considered as mislabeling.

Sec. 23. (1) All labeling and advertisement of organic products shall comply with the requirements contained in this act and rules adopted under this act.

(2) The director shall consider as mislabeled an organic product meeting any of the following circumstances:

(a) Is false or misleading in any particular, taking into account representations made or suggested by statement, work, design, device, sound, or any combination of statement, work, design, or sound, or any other means as determined by the director.

(b) In the case of a product that originated or was produced in Michigan, does not meet the Michigan organic standards or is not certified by a Michigan registered certifying agent, or both.

(c) In the case of a product that is brought into this state, has not been certified organic.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.925 Organic advisory committee; creation; powers and duties; membership; terms; travel reimbursement; election of officers and adoption of rules; quorum; meetings; proceedings subject to open meetings act; records subject to freedom of information act.

Sec. 25. (1) There is created an organic advisory committee within the department. The committee shall advise the director on the implementation of this act and the promulgation of rules and may do all of the following:

(a) Assist the director in developing the Michigan organic standards and recommend appropriate equivalent interim standards.

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(b) Annually review and recommend changes in the Michigan organic standards, if necessary.

(c) Review and recommend to the director rules and policies governing the business of organic production and handling by study and evaluation of organic production issues.

(d) Annually conduct or cause to be conducted a comprehensive review of the organic product registration and certifying agent registration programs and advise and recommend to the director any necessary changes to the programs.

(e) Formulate and recommend to the director actions and policies to promote organic products.

(2) The organic advisory committee shall consist of 11 voting members appointed by the director for 4-year terms. The voting membership shall include 4 producers of organic food, 4 individuals who are either retail food establishments, processors, or input suppliers of organic food or organic fiber, and 3 members of the general public who are consumers of organic products and are not associated with the commercial production or handling of organic food or organic fiber. Of the initial membership, 4 members shall be appointed for a term of 4 years, 3 for a term of 3 years, 2 for a term of 2 years, and 2 for a term of 1 year. The department may allow a representative of the United States department of agriculture natural resources conservation service, the Michigan state university cooperative extension service or the agricultural experiment station, the director, and a member of a recognized environmental organization to serve as ex officio nonvoting members.

(3) Members shall receive reimbursement for travel in the amount provided for in the department of management and budget regulations.

(4) The members, at the first meeting and annually thereafter, shall elect officers and adopt rules of procedure. Terms of officers are 1 year. A majority of the members are a quorum and an act performed by a majority of the quorum is considered an official act of the committee.

(5) The committee shall meet at the call of the chair, at the request of a majority of its members, at the request of the department, or at such times as may be prescribed by its procedural rules. The proceedings of the committee are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Any records, except those that may be used to identify an individual's financial status or proprietary information, are subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.927 Complaints and investigations; penalties or remedies; rules; denial of application; suspension or revocation of registration; seizure of product; disposition; written notice of warning; injunctive relief; access by director to establishment or operation; stop sale order; hearing.

Sec. 27. (1) The director, in administering and enforcing this act, shall investigate complaints and initiate and conduct investigations of alleged violations of this act. The director may deny an application for or suspend or revoke registration of a certifying agent or a handler or take other action or utilize other penalties or remedies as are available under this section.

(2) The director may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to enforce and implement this act.

(3) The director may deny an application for or suspend or revoke a registration issued for a certifying agent or a handler under this act for any of the following:

(a) Submission of an application or verification documents that contain insufficient information upon which the department can make an appropriate determination.

(b) Submission of or providing verification documents that demonstrate noncompliance with any provision of this act.

(c) Engaging in fraudulent or deceptive practices or as evasion or attempt at evasion of this act or standards and procedures established pursuant to this act.

(d) Making a false representation.

(e) Violating or refusing to comply with this act or an order of the director.

(f) Having had registration revoked, suspended, or denied under this act within the preceding 5 years.

(4) The director may seize and take possession of an organic or agricultural product not in compliance with this act. An organic or agricultural product not in compliance with this act is subject to seizure upon a complaint filed in a court of competent jurisdiction in the county where the product is located. If the court determines the product to be in violation and orders the condemnation of the product, it shall be denatured, destroyed, relabeled, or otherwise disposed of in compliance with the law. The court shall not order the disposition of the product without giving the claimant an opportunity to apply to the court for the release of the product or permission to relabel the product in compliance with this act.

(5) This act does not require the director to revoke or suspend a registration, report for prosecution,

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institute seizure or proceedings, issue an order for withdrawal from distribution, or take other administrative action as a result of a minor violation of this act when the director determines that the public interest is best served by suitable notice of warning in writing.

(6) The director may apply for temporary or permanent injunctive relief, without bond, to restrain a person from violating or continuing to violate this act or a rule adopted under this act notwithstanding the existence of other remedies at law.

(7) The director shall have free access at all reasonable hours to any establishment or operation, including a vehicle used to transport or hold agricultural or organic products, for the purpose of inspecting the establishment, operation, or vehicle to determine if this act has been violated. The director may secure samples or specimens of any agricultural or organic product, after paying or offering to pay for such samples or specimens, to determine if this act is being violated. The director may examine any records of the establishment, operation, or certifying agent to obtain necessary and pertinent information.

(8) The director may issue and enforce a written printed stop sale order to the owner or custodian or any organic or agricultural product the director determines is in violation of this act or rule adopted under this act. The order shall prohibit the further sale, processing, or movement of the product except upon the approval of the director and until the director has evidence of compliance with the law and has issued a release from the stop sale order. The owner or custodian of the agricultural product may request a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2000, Act 316, Eff. Oct. 1, 2001.

Compiler's note: In the first sentence of subsection (8), the phrase "to the owner or custodian or any organic or agricultural product" evidently should read "to the owner or custodian of any organic or agricultural product."

286.929 Violation of act or rule; administrative fine; misdemeanor; penalty; affirmative defense; felony.

Sec. 29. (1) Upon finding that a person subject to this act violated a provision of this act or rule promulgated under this act, the department may impose an administrative fine of not more than $500.00 for the first offense and not more than $1,000.00 for a second or subsequent offense and the actual costs of the investigation of the violation.

(2) Except as otherwise provided for under this act, a person subject to this act who violates any provision of this act or rules promulgated under this act is guilty of a misdemeanor punishable by a fine of not less than $250.00 or more than $2,500.00 or by imprisonment for not more than 90 days, or both.

(3) In defense of an action filed under this act and in addition to any other unlawful defense, a person may present evidence as an affirmative defense that, at the time of the alleged violation, he or she was in compliance with this act and rules promulgated under this act.

(4) Notwithstanding the other provisions of this act, a person who knowingly violates section 23(2) and section 27(3)(c) is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than $10,000.00 plus twice the amount of any economic benefit associated with the violation, or both.

History: 2000, Act 316, Eff. Oct. 1, 2001.

286.931 Effective date.

Sec. 31. This act takes effect October 1, 2001.

History: 2000, Act 316, Eff. Oct. 1, 2001.

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RURAL DEVELOPMENT FUND ACT
Act 411 of 2012

AN ACT to establish certain programs that promote the sustainability of land-based industries and support infrastructure that benefits rural communities; to establish a fund and provide for its use; and to prescribe the powers and duties of certain state agencies and officials.

History: 2012, Act 411, Imd. Eff. Dec. 20, 2012.

The People of the State of Michigan enact:

286.941 Short title.

Sec. 1. This act shall be known and may be cited as the "rural development fund act".

History: 2012, Act 411, Imd. Eff. Dec. 20, 2012.

286.942 Definitions.

Sec. 2. As used in this act:

(a) "Board" means the rural development fund board established in section 3.

(b) "Commission" means the commission of agriculture and rural development.

(c) "Department" means the department of agriculture and rural development.

(d) "Director" means the director of the department.

(e) "Fund" means the rural development fund created in section 5.

(f) "Land-based industries" means food and agriculture, forestry, mining, oil and gas production, and tourism.

(g) "Local unit of government" means a county, city, township, village, school district, or any authority composed of counties, cities, townships, villages, or school districts, or any combination of these entities.

(h) "Telecommunication facilities" means either or both of the following:

(*i*) Telecommunication facilities as defined in section 2 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3102.

(*ii*) Facilities used by a video service provider as defined in section 1 of the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

History: 2012, Act 411, Imd. Eff. Dec. 20, 2012.

286.943 Rural development fund board; creation; qualifications; appointment; terms; compensation; oath of office; election of chairperson and officers; personnel; quorum; compliance with open meetings act; removal of member; duties.

Sec. 3. (1) The rural development fund board is created within the department.

(2) The board shall be composed of 5 members as follows:

(a) The director, or his or her designee from within the department, who shall provide the board with input and expertise relating to this state's food and agriculture sector and economic development.

(b) Four individuals appointed by the governor with the advice and consent of the senate who have knowledge, skill, or experience in land-based industries or fields of economic development or infrastructure. In making the appointments under this subdivision, the governor shall comply with all of the following:

(*i*) Two of the members shall be residents of the Upper Peninsula and 2 of the members shall be residents of the Lower Peninsula.

(*ii*) Not more than 2 of the members shall be members of the same political party.

(*iii*) At least 1 of the members shall be a resident of the area where funds are generated under section 5(2)(c).

(3) The members appointed under subsection (2)(b) shall serve for terms of 4 years. Of members first appointed, 1 shall be appointed for an initial term of 1 year, 1 shall be appointed for an initial term of 2 years, and 2 shall be appointed for an initial term of 3 years. Members shall serve until a successor is appointed. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(4) A member of the board shall not receive compensation for his or her services. However, a board member is entitled to reimbursement for all expenses necessarily incurred in the performance of his or her duties.

(5) The members of the board shall qualify by taking and filing the oath of office.

(6) The board shall annually elect 1 of the members of the board as chairperson of the board and other officers as considered necessary by the board.

(7) The department shall provide the board with personnel sufficient to perform the board's powers, duties,

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and functions under law.

(8) A majority of the board members shall be required to constitute a quorum. The business which the board may perform shall be conducted at a meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by that act.

(9) A member of the board appointed under subsection (2)(b) may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office.

(10) The board shall carry out responsibilities as provided in this act and as otherwise provided by law.

History: 2012, Act 411, Imd. Eff. Dec. 20, 2012.

286.944 Board members as public servants and public officers; discharge of duties in nonpartisan manner; conflict of interest; noncompliance with subsection (4).

Sec. 4. (1) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323, members of the board are considered public servants subject to 1968 PA 317, MCL 15.321 to 15.330, and public officers subject to 1973 PA 196, MCL 15.341 to 15.348. A member of the board shall discharge the duties of the position in a nonpartisan manner, in good faith, in the best interests of this state, and with the degree of diligence, care, and skill that a fiduciary would exercise under similar circumstances in a like position.

(2) A member of the board shall not make or participate in making or in any way attempt to use his or her position as a member of the board to influence a matter before the board regarding a grant, loan, loan guarantee, or other expenditure under this act to his or her employer.

(3) A member, employee, or agent of the board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the board in writing of the details of any incident or circumstances that may present the existence of a conflict of interest with respect to the performance of the board-related work or duty of the member or agent of the board.

(4) A member of the board who has a conflict of interest related to any matter before the board shall disclose the conflict of interest before the board takes any action with respect to the matter, which disclosure shall become a part of the record of the board's official proceedings. The member with the conflict of interest shall refrain from doing all of the following with respect to the matter that is the basis of the conflict of interest:

(a) Voting in the board's proceedings related to the matter.

(b) Participating in the board's discussion of and deliberation on the matter.

(c) Being present at the meeting when the discussion, deliberation, and voting on the matter take place.

(d) Discussing the matter with any other board member.

(5) Failure of a member to comply with subsection (4) constitutes malfeasance in office subject to removal under section 3(9).

History: 2012, Act 411, Imd. Eff. Dec. 20, 2012.

286.945 Rural development fund.

Sec. 5. (1) The rural development fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including, but not limited to, all of the following:

(a) State or federal appropriations, transfers, or grants.

(b) Gifts, bequests, or donations.

(c) Funds generated under the nonferrous metallic minerals extraction severance tax act.

(3) The state treasurer shall direct the investment of the fund. The state treasurer shall have the same authority to invest the assets of the fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m. The state treasurer shall comply with the divestment from terror act, 2008 PA 234, MCL 129.291 to 129.301, in making investments under this act. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) The department shall be the administrator of the fund for auditing purposes.

(6) The department shall annually compile a report containing an accounting of revenues and expenditures from the fund prepared by the state treasurer. The report shall identify the interest and earnings of the fund from the previous year, the investment performance of the fund during the previous year, and the total amount of appropriations from the fund during the previous year. The report shall also include a status report for projects funded under this act and the criteria used by the department for the allocation of funds. The report shall be provided to the senate and house of representatives appropriations committees and the standing

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committees of the senate and house of representatives with jurisdiction over issues pertaining to agriculture and rural development.

History: 2012, Act 411, Imd. Eff. Dec. 20, 2012.

286.946 Evaluation of project proposals; criteria; review and update; posting on department's website and printed materials.

Sec. 6. (1) The board shall develop criteria for evaluating project proposals for funding with money from the fund. The criteria shall include both of the following:

(a) A preference for projects in the region in which revenues are generated as described in section 5(2)(c).

(b) Support for projects that address the expansion and sustainability of land-based industries, worker training related to land-based industries, and energy, transportation, communications, water, and wastewater infrastructures to benefit rural communities and micropolitan statistical areas described in the 2010 standards for delineating metropolitan and micropolitan statistical areas of the United States office of management and budget, 75 FR 123, p 37246 (June 28, 2010).

(2) The board shall annually review the criteria developed under subsection (1) and update the criteria as the board considers necessary.

(3) The criteria developed under this section, as updated under subsection (2), shall be posted on the department's website and on printed materials in advance of any request for funding proposals.

History: 2012, Act 411, Imd. Eff. Dec. 20, 2012.

286.947 Expenditures; requests for project proposals; determinations; prohibited expenditures; matching funds.

Sec. 7. (1) Money in the fund shall be expended, upon legislative appropriation, for all of the following:

(a) Grants, loans, and loan guarantees to fund projects identified under subsection (3).

(b) Administrative expenses of the department in implementing this act.

(c) Not more than $250,000.00 of the revenue received during each state fiscal year may be transferred to the nonferrous metallic mineral surveillance fund created in section 63217 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63217.

(2) The department shall solicit requests for project proposals to be funded with money from the fund from individuals, organizations, businesses, local units of government, federally recognized tribes, and educational institutions.

(3) The department, with the advice of the board, shall determine which projects should be funded with money from the fund, based on the criteria established by the board under section 6. However, money from the fund shall not be expended for any of the following:

(a) Projects that include telecommunication facilities owned or operated by an educational institution or an affiliate, a local unit of government, or any other governmental entity.

(b) The construction of telecommunication facilities or wireless telecommunication facilities in areas where broadband service of at least 3 mbps downstream and 768 kbps upstream is available.

(4) Grants from the fund may be used to provide matching funds for other available grants, as allowed by law.

History: 2012, Act 411, Imd. Eff. Dec. 20, 2012.

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